

AMENDED IN SENATE APRIL 17, 2012

SENATE BILL

No. 1236

Introduced by Senator Price

February 23, 2012

An act to amend Sections 800, 801.01, 802.1, 802.5, 803, 803.1, 803.5, 803.6, 805, 2335, 2460, 2465, 2470, 2472, 2475, 2477, 2484, 2493, 2496, 2497.5, 3501, 3502, 3502.1, 3502.3, 3502.5, 3504, 3504.1, 3505, ~~and~~ 3506, 3507, 3508, 3509, 3509.5, 3510, 3511, 3512, 3513, 3514.1, 3516, 3516.5, 3517, 3518, 3519, 3519.5, 3520, 3521, 3521.1, 3521.2, 3521.5, 3522, 3523, 3524, 3524.5, 3526, 3527, 3529, 3530, 3531, 3533, 3534, 3534.1, 3534.2, 3534.3, 3534.4, 3534.5, 3534.6, 3534.7, 3534.9, 3534.10, 3535, 3537.10, 3537.20, 3537.30, 3537.50, 3540, 3546 of, and to add Sections 3521.3 and 3521.4 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1236, as amended, Price. Healing arts boards.

Existing

(1) *Existing* law provides for the ~~licensure~~ *certification* and regulation of podiatrists by the California Board of Podiatric Medicine within the jurisdiction of the Medical Board of California. ~~Existing law provides for the licensure and regulation of physician assistants by the Physician Assistant Committee of the Medical Board of California.~~ Under existing law, the California Board of Podiatric Medicine ~~and the committee~~ will be repealed on January 1, 2013. Existing law requires that boards scheduled for repeal be reviewed by the Joint Sunset Review Committee of the Legislature.

This bill would extend the operation of the California Board of Podiatric Medicine ~~and the committee~~ until January 1, 2017. The bill

would specify that the board ~~and committee are~~ is subject to review by the appropriate policy committees of the Legislature. *The bill would revise provisions regarding the examination of applicants for certification to practice podiatric medicine.*

(2) Existing law establishes the Physician Assistant Committee within the jurisdiction of the Medical Board of California and provides for its membership, operation, duties, and powers with respect to licensure and regulation of physician assistants, including requirements for the payment of license renewal fees. Under existing law, the committee will be repealed on January 1, 2013.

This bill would rename the committee as the Physician Assistant Board, make various conforming changes relative to this change in designation, and extend the operation of the board until January 1, 2017. The bill would revise the composition of the board and would specify exemptions to the requirements for the payment of license renewal fees. The bill would specify that the board is subject to review by the appropriate policy committees of the Legislature.

(3) Existing law specifies reports to be made and procedures to be followed when a coroner receives information, as specified, that a death may be the result of a physician and surgeon's, or podiatrist's gross negligence or incompetence, and in connection with disciplinary actions against those licensees.

This bill would expand those provisions to include conduct of a physician assistant.

(4) Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her licensing board the occurrence of an indictment or information charging a felony against the licensee or the conviction of the licensee of a felony or misdemeanor. Under existing law the failure of those licensees to submit the required report is a crime.

This bill would impose that requirement on a physician assistant. Because a violation of this requirement by a physician assistant would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 800 of the Business and Professions Code
2 is amended to read:

3 800. (a) The Medical Board of California, the Board of
4 Psychology, the Dental Board of California, the Osteopathic
5 Medical Board of California, the State Board of Chiropractic
6 Examiners, the Board of Registered Nursing, the Board of
7 Vocational Nursing and Psychiatric Technicians, the State Board
8 of Optometry, the Veterinary Medical Board, the Board of
9 Behavioral Sciences, the Physical Therapy Board of California,
10 the California State Board of Pharmacy, the Speech-Language
11 Pathology and Audiology and Hearing Aid Dispensers Board, the
12 California Board of Occupational Therapy, ~~and the Acupuncture~~
13 Board, *and the Physician Assistant Board* shall each separately
14 create and maintain a central file of the names of all persons who
15 hold a license, certificate, or similar authority from that board.
16 Each central file shall be created and maintained to provide an
17 individual historical record for each licensee with respect to the
18 following information:

19 (1) Any conviction of a crime in this or any other state that
20 constitutes unprofessional conduct pursuant to the reporting
21 requirements of Section 803.

22 (2) Any judgment or settlement requiring the licensee or his or
23 her insurer to pay any amount of damages in excess of three
24 thousand dollars (\$3,000) for any claim that injury or death was
25 proximately caused by the licensee's negligence, error or omission
26 in practice, or by rendering unauthorized professional services,
27 pursuant to the reporting requirements of Section 801 or 802.

28 (3) Any public complaints for which provision is made pursuant
29 to subdivision (b).

30 (4) Disciplinary information reported pursuant to Section 805,
31 including any additional exculpatory or explanatory statements
32 submitted by the licensee pursuant to subdivision (f) of Section
33 805. If a court finds, in a final judgment, that the peer review
34 resulting in the 805 report was conducted in bad faith and the
35 licensee who is the subject of the report notifies the board of that

1 finding, the board shall include that finding in the central file. For
2 purposes of this paragraph, “peer review” has the same meaning
3 as defined in Section 805.

4 (5) Information reported pursuant to Section 805.01, including
5 any explanatory or exculpatory information submitted by the
6 licensee pursuant to subdivision (b) of that section.

7 (b) Each board shall prescribe and promulgate forms on which
8 members of the public and other licensees or certificate holders
9 may file written complaints to the board alleging any act of
10 misconduct in, or connected with, the performance of professional
11 services by the licensee.

12 If a board, or division thereof, a committee, or a panel has failed
13 to act upon a complaint or report within five years, or has found
14 that the complaint or report is without merit, the central file shall
15 be purged of information relating to the complaint or report.

16 Notwithstanding this subdivision, the Board of Psychology, the
17 Board of Behavioral Sciences, and the Respiratory Care Board of
18 California shall maintain complaints or reports as long as each
19 board deems necessary.

20 (c) The contents of any central file that are not public records
21 under any other provision of law shall be confidential except that
22 the licensee involved, or his or her counsel or representative, shall
23 have the right to inspect and have copies made of his or her
24 complete file except for the provision that may disclose the identity
25 of an information source. For the purposes of this section, a board
26 may protect an information source by providing a copy of the
27 material with only those deletions necessary to protect the identity
28 of the source or by providing a comprehensive summary of the
29 substance of the material. Whichever method is used, the board
30 shall ensure that full disclosure is made to the subject of any
31 personal information that could reasonably in any way reflect or
32 convey anything detrimental, disparaging, or threatening to a
33 licensee’s reputation, rights, benefits, privileges, or qualifications,
34 or be used by a board to make a determination that would affect
35 a licensee’s rights, benefits, privileges, or qualifications. The
36 information required to be disclosed pursuant to Section 803.1
37 shall not be considered among the contents of a central file for the
38 purposes of this subdivision.

1 The licensee may, but is not required to, submit any additional
2 exculpatory or explanatory statement or other information that the
3 board shall include in the central file.

4 Each board may permit any law enforcement or regulatory
5 agency when required for an investigation of unlawful activity or
6 for licensing, certification, or regulatory purposes to inspect and
7 have copies made of that licensee's file, unless the disclosure is
8 otherwise prohibited by law.

9 These disclosures shall effect no change in the confidential status
10 of these records.

11 *SEC. 2. Section 801.01 of the Business and Professions Code*
12 *is amended to read:*

13 801.01. The Legislature finds and declares that the filing of
14 reports with the applicable state agencies required under this
15 section is essential for the protection of the public. It is the intent
16 of the Legislature that the reporting requirements set forth in this
17 section be interpreted broadly in order to expand reporting
18 obligations.

19 (a) A complete report shall be sent to the Medical Board of
20 California, the Osteopathic Medical Board of California, ~~or~~ the
21 California Board of Podiatric Medicine, *or the Physician Assistant*
22 *Board* with respect to a licensee of the board as to the following:

23 (1) A settlement over thirty thousand dollars (\$30,000) or
24 arbitration award of any amount or a civil judgment of any amount,
25 whether or not vacated by a settlement after entry of the judgment,
26 that was not reversed on appeal, of a claim or action for damages
27 for death or personal injury caused by the licensee's alleged
28 negligence, error, or omission in practice, or by his or her rendering
29 of unauthorized professional services.

30 (2) A settlement over thirty thousand dollars (\$30,000), if the
31 settlement is based on the licensee's alleged negligence, error, or
32 omission in practice, or on the licensee's rendering of unauthorized
33 professional services, and a party to the settlement is a corporation,
34 medical group, partnership, or other corporate entity in which the
35 licensee has an ownership interest or that employs or contracts
36 with the licensee.

37 (b) The report shall be sent by the following:

38 (1) The insurer providing professional liability insurance to the
39 licensee.

1 (2) The licensee, or his or her counsel, if the licensee does not
2 possess professional liability insurance.

3 (3) A state or local governmental agency that self-insures the
4 licensee. For purposes of this section “state governmental agency”
5 includes, but is not limited to, the University of California.

6 (c) The entity, person, or licensee obligated to report pursuant
7 to subdivision (b) shall send the complete report if the judgment,
8 settlement agreement, or arbitration award is entered against or
9 paid by the employer of the licensee and not entered against or
10 paid by the licensee. “Employer,” as used in this paragraph, means
11 a professional corporation, a group practice, a health care facility
12 or clinic licensed or exempt from licensure under the Health and
13 Safety Code, a licensed health care service plan, a medical care
14 foundation, an educational institution, a professional institution,
15 a professional school or college, a general law corporation, a public
16 entity, or a nonprofit organization that employs, retains, or contracts
17 with a licensee referred to in this section. Nothing in this paragraph
18 shall be construed to authorize the employment of, or contracting
19 with, any licensee in violation of Section 2400.

20 (d) The report shall be sent to the Medical Board of California,
21 the Osteopathic Medical Board of California,~~or the California~~
22 Board of Podiatric Medicine, *or the Physician Assistant Board* as
23 appropriate, within 30 days after the written settlement agreement
24 has been reduced to writing and signed by all parties thereto, within
25 30 days after service of the arbitration award on the parties, or
26 within 30 days after the date of entry of the civil judgment.

27 (e) The entity, person, or licensee required to report under
28 subdivision (b) shall notify the claimant or his or her counsel, if
29 he or she is represented by counsel, that the report has been sent
30 to the Medical Board of California, the Osteopathic Medical Board
31 of California,~~or the California Board of Podiatric Medicine, or~~
32 *the Physician Assistant Board*. If the claimant or his or her counsel
33 has not received this notice within 45 days after the settlement was
34 reduced to writing and signed by all of the parties or the arbitration
35 award was served on the parties or the date of entry of the civil
36 judgment, the claimant or the claimant’s counsel shall make the
37 report to the appropriate board.

38 (f) Failure to substantially comply with this section is a public
39 offense punishable by a fine of not less than five hundred dollars
40 (\$500) and not more than five thousand dollars (\$5,000).

1 (g) (1) The Medical Board of California, the Osteopathic
2 Medical Board of California, ~~and~~ the California Board of Podiatric
3 Medicine, *and the Physician Assistant Board* may develop a
4 prescribed form for the report.

5 (2) The report shall be deemed complete only if it includes the
6 following information:

7 (A) The name and last known business and residential addresses
8 of every plaintiff or claimant involved in the matter, whether or
9 not the person received an award under the settlement, arbitration,
10 or judgment.

11 (B) The name and last known business and residential address
12 of every licensee who was alleged to have acted improperly,
13 whether or not that person was a named defendant in the action
14 and whether or not that person was required to pay any damages
15 pursuant to the settlement, arbitration award, or judgment.

16 (C) The name, address, and principal place of business of every
17 insurer providing professional liability insurance to any person
18 described in subparagraph (B), and the insured's policy number.

19 (D) The name of the court in which the action or any part of the
20 action was filed, and the date of filing and case number of each
21 action.

22 (E) A description or summary of the facts of each claim, charge,
23 or allegation, including the date of occurrence and the licensee's
24 role in the care or professional services provided to the patient
25 with respect to those services at issue in the claim or action.

26 (F) The name and last known business address of each attorney
27 who represented a party in the settlement, arbitration, or civil
28 action, including the name of the client he or she represented.

29 (G) The amount of the judgment, the date of its entry, and a
30 copy of the judgment; the amount of the arbitration award, the date
31 of its service on the parties, and a copy of the award document; or
32 the amount of the settlement and the date it was reduced to writing
33 and signed by all parties. If an otherwise reportable settlement is
34 entered into after a reportable judgment or arbitration award is
35 issued, the report shall include both the settlement and a copy of
36 the judgment or award.

37 (H) The specialty or subspecialty of the licensee who was the
38 subject of the claim or action.

39 (I) Any other information the Medical Board of California, the
40 Osteopathic Medical Board of California, ~~or~~ the California Board

1 of Podiatric Medicine, *or the Physician Assistant Board* may, by
2 regulation, require.

3 (3) Every professional liability insurer, self-insured
4 governmental agency, or licensee or his or her counsel that makes
5 a report under this section and has received a copy of any written
6 or electronic patient medical or hospital records prepared by the
7 treating physician and surgeon ~~or podiatrist, or physician assistant,~~
8 or the staff of the treating physician and surgeon, podiatrist, or
9 hospital, describing the medical condition, history, care, or
10 treatment of the person whose death or injury is the subject of the
11 report, or a copy of any deposition in the matter that discusses the
12 care, treatment, or medical condition of the person, shall include
13 with the report, copies of the records and depositions, subject to
14 reasonable costs to be paid by the Medical Board of California,
15 the Osteopathic Medical Board of California, ~~or the California~~
16 Board of Podiatric Medicine, *or the Physician Assistant Board*. If
17 confidentiality is required by court order and, as a result, the
18 reporter is unable to provide the records and depositions,
19 documentation to that effect shall accompany the original report.
20 The applicable board may, upon prior notification of the parties
21 to the action, petition the appropriate court for modification of any
22 protective order to permit disclosure to the board. A professional
23 liability insurer, self-insured governmental agency, or licensee or
24 his or her counsel shall maintain the records and depositions
25 referred to in this paragraph for at least one year from the date of
26 filing of the report required by this section.

27 (h) If the board, within 60 days of its receipt of a report filed
28 under this section, notifies a person named in the report, that person
29 shall maintain for the period of three years from the date of filing
30 of the report any records he or she has as to the matter in question
31 and shall make those records available upon request to the board
32 to which the report was sent.

33 (i) Notwithstanding any other provision of law, no insurer shall
34 enter into a settlement without the written consent of the insured,
35 except that this prohibition shall not void any settlement entered
36 into without that written consent. The requirement of written
37 consent shall only be waived by both the insured and the insurer.

38 (j) (1) A state or local governmental agency that self-insures
39 licensees shall, prior to sending a report pursuant to this section,

1 do all of the following with respect to each licensee who will be
2 identified in the report:

3 (A) Before deciding that a licensee will be identified, provide
4 written notice to the licensee that the agency intends to submit a
5 report in which the licensee may be identified, based on his or her
6 role in the care or professional services provided to the patient that
7 were at issue in the claim or action. This notice shall describe the
8 reasons for notifying the licensee. The agency shall include with
9 this notice a reasonable opportunity for the licensee to review a
10 copy of records to be used by the agency in deciding whether to
11 identify the licensee in the report.

12 (B) Provide the licensee with a reasonable opportunity to provide
13 a written response to the agency and written materials in support
14 of the licensee's position. If the licensee is identified in the report,
15 the agency shall include this response and materials in the report
16 submitted to a board under this section if requested by the licensee.

17 (C) At least 10 days prior to the expiration of the 30-day
18 reporting requirement under subdivision (d), provide the licensee
19 with the opportunity to present arguments to the body that will
20 make the final decision or to that body's designee. The body shall
21 review the care or professional services provided to the patient
22 with respect to those services at issue in the claim or action and
23 determine the licensee or licensees to be identified in the report
24 and the amount of the settlement to be apportioned to the licensee.

25 (2) Nothing in this subdivision shall be construed to modify
26 either the content of a report required under this section or the
27 timeframe for filing that report.

28 (k) For purposes of this section, "licensee" means a licensee of
29 the Medical Board of California, the Osteopathic Medical Board
30 of California, ~~or~~ the California Board of Podiatric Medicine, *or*
31 *the Physician Assistant Board*.

32 *SEC. 3. Section 802.1 of the Business and Professions Code*
33 *is amended to read:*

34 802.1. (a) (1) A physician and surgeon, osteopathic physician
35 and surgeon, ~~and~~ a doctor of podiatric medicine, *and a physician*
36 *assistant* shall report either of the following to the entity that issued
37 his or her license:

38 (A) The bringing of an indictment or information charging a
39 felony against the licensee.

1 (B) The conviction of the licensee, including any verdict of
2 guilty, or plea of guilty or no contest, of any felony or
3 misdemeanor.

4 (2) The report required by this subdivision shall be made in
5 writing within 30 days of the date of the bringing of the indictment
6 or information or of the conviction.

7 (b) Failure to make a report required by this section shall be a
8 public offense punishable by a fine not to exceed five thousand
9 dollars (\$5,000).

10 *SEC. 4. Section 802.5 of the Business and Professions Code*
11 *is amended to read:*

12 802.5. (a) When a coroner receives information that is based
13 on findings that were reached by, or documented and approved by
14 a board-certified or board-eligible pathologist indicating that a
15 death may be the result of a ~~physician's or physician and surgeon's,~~
16 *podiatrist's, or physician assistant's* gross negligence or
17 incompetence, a report shall be filed with the Medical Board of
18 California, the Osteopathic Medical Board of California, ~~or the~~
19 *California Board of Podiatric Medicine, or the Physician Assistant*
20 *Board.* The initial report shall include the name of the decedent,
21 date and place of death, attending physicians or podiatrists, and
22 all other relevant information available. The initial report shall be
23 followed, within 90 days, by copies of the coroner's report, autopsy
24 protocol, and all other relevant information.

25 (b) The report required by this section shall be confidential. No
26 coroner, physician and surgeon, or medical examiner, nor any
27 authorized agent, shall be liable for damages in any civil action as
28 a result of his or her acting in compliance with this section. No
29 board-certified or board-eligible pathologist, nor any authorized
30 agent, shall be liable for damages in any civil action as a result of
31 his or her providing information under subdivision (a).

32 *SEC. 5. Section 803 of the Business and Professions Code is*
33 *amended to read:*

34 803. (a) Except as provided in subdivision (b), within 10 days
35 after a judgment by a court of this state that a person who holds a
36 license, certificate, or other similar authority from the Board of
37 Behavioral Sciences or from an agency mentioned in subdivision
38 (a) of Section 800 (except a person licensed pursuant to Chapter
39 3 (commencing with Section 1200)) has committed a crime, or is
40 liable for any death or personal injury resulting in a judgment for

1 an amount in excess of thirty thousand dollars (\$30,000) caused
2 by his or her negligence, error or omission in practice, or his or
3 her rendering unauthorized professional services, the clerk of the
4 court that rendered the judgment shall report that fact to the agency
5 that issued the license, certificate, or other similar authority.

6 (b) For purposes of a physician and surgeon, osteopathic
7 physician and surgeon, ~~or~~ doctor of podiatric medicine, *or*
8 *physician assistant*, who is liable for any death or personal injury
9 resulting in a judgment of any amount caused by his or her
10 negligence, error or omission in practice, or his or her rendering
11 unauthorized professional services, the clerk of the court that
12 rendered the judgment shall report that fact to the agency that
13 issued the license.

14 *SEC. 6. Section 803.1 of the Business and Professions Code*
15 *is amended to read:*

16 803.1. (a) Notwithstanding any other provision of law, the
17 Medical Board of California, the Osteopathic Medical Board of
18 California, ~~and~~ the California Board of Podiatric Medicine, *and*
19 *the Physician Assistant Board* shall disclose to an inquiring
20 member of the public information regarding any enforcement
21 actions taken against a licensee, including a former licensee, by
22 the board or by another state or jurisdiction, including all of the
23 following:

24 (1) Temporary restraining orders issued.

25 (2) Interim suspension orders issued.

26 (3) Revocations, suspensions, probations, or limitations on
27 practice ordered by the board, including those made part of a
28 probationary order or stipulated agreement.

29 (4) Public letters of reprimand issued.

30 (5) Infractions, citations, or fines imposed.

31 (b) Notwithstanding any other provision of law, in addition to
32 the information provided in subdivision (a), the Medical Board of
33 California, the Osteopathic Medical Board of California, ~~and~~ the
34 California Board of Podiatric Medicine, *and the Physician Assistant*
35 *Board* shall disclose to an inquiring member of the public all of
36 the following:

37 (1) Civil judgments in any amount, whether or not vacated by
38 a settlement after entry of the judgment, that were not reversed on
39 appeal and arbitration awards in any amount of a claim or action
40 for damages for death or personal injury caused by the physician

1 and surgeon's negligence, error, or omission in practice, or by his
2 or her rendering of unauthorized professional services.

3 (2) (A) All settlements in the possession, custody, or control
4 of the board shall be disclosed for a licensee in the low-risk
5 category if there are three or more settlements for that licensee
6 within the last 10 years, except for settlements by a licensee
7 regardless of the amount paid where (i) the settlement is made as
8 a part of the settlement of a class claim, (ii) the licensee paid in
9 settlement of the class claim the same amount as the other licensees
10 in the same class or similarly situated licensees in the same class,
11 and (iii) the settlement was paid in the context of a case where the
12 complaint that alleged class liability on behalf of the licensee also
13 alleged a products liability class action cause of action. All
14 settlements in the possession, custody, or control of the board shall
15 be disclosed for a licensee in the high-risk category if there are
16 four or more settlements for that licensee within the last 10 years
17 except for settlements by a licensee regardless of the amount paid
18 where (i) the settlement is made as a part of the settlement of a
19 class claim, (ii) the licensee paid in settlement of the class claim
20 the same amount as the other licensees in the same class or
21 similarly situated licensees in the same class, and (iii) the
22 settlement was paid in the context of a case where the complaint
23 that alleged class liability on behalf of the licensee also alleged a
24 products liability class action cause of action. Classification of a
25 licensee in either a "high-risk category" or a "low-risk category"
26 depends upon the specialty or subspecialty practiced by the licensee
27 and the designation assigned to that specialty or subspecialty by
28 the Medical Board of California, as described in subdivision (f).
29 For the purposes of this paragraph, "settlement" means a settlement
30 of an action described in paragraph (1) entered into by the licensee
31 on or after January 1, 2003, in an amount of thirty thousand dollars
32 (\$30,000) or more.

33 (B) The board shall not disclose the actual dollar amount of a
34 settlement but shall put the number and amount of the settlement
35 in context by doing the following:

36 (i) Comparing the settlement amount to the experience of other
37 licensees within the same specialty or subspecialty, indicating if
38 it is below average, average, or above average for the most recent
39 10-year period.

1 (ii) Reporting the number of years the licensee has been in
2 practice.

3 (iii) Reporting the total number of licensees in that specialty or
4 subspecialty, the number of those who have entered into a
5 settlement agreement, and the percentage that number represents
6 of the total number of licensees in the specialty or subspecialty.

7 (3) Current American Board of Medical Specialty certification
8 or board equivalent as certified by the Medical Board of California,
9 the Osteopathic Medical Board of California, or the California
10 Board of Podiatric Medicine.

11 (4) Approved postgraduate training.

12 (5) Status of the license of a licensee. By January 1, 2004, the
13 Medical Board of California, the Osteopathic Medical Board of
14 California, and the California Board of Podiatric Medicine shall
15 adopt regulations defining the status of a licensee. The board shall
16 employ this definition when disclosing the status of a licensee
17 pursuant to Section 2027.

18 (6) Any summaries of hospital disciplinary actions that result
19 in the termination or revocation of a licensee's staff privileges for
20 medical disciplinary cause or reason, unless a court finds, in a final
21 judgment, that the peer review resulting in the disciplinary action
22 was conducted in bad faith and the licensee notifies the board of
23 that finding. In addition, any exculpatory or explanatory statements
24 submitted by the licensee electronically pursuant to subdivision
25 (f) of that section shall be disclosed. For purposes of this paragraph,
26 "peer review" has the same meaning as defined in Section 805.

27 (c) Notwithstanding any other provision of law, the Medical
28 Board of California, the Osteopathic Medical Board of California,
29 ~~and the California Board of Podiatric Medicine, and the Physician~~
30 *Assistant Board* shall disclose to an inquiring member of the public
31 information received regarding felony convictions of a physician
32 and surgeon or doctor of podiatric medicine.

33 (d) The Medical Board of California, the Osteopathic Medical
34 Board of California,~~and the California Board of Podiatric~~
35 *Medicine, and the Physician Assistant Board* may formulate
36 appropriate disclaimers or explanatory statements to be included
37 with any information released, and may by regulation establish
38 categories of information that need not be disclosed to an inquiring
39 member of the public because that information is unreliable or not
40 sufficiently related to the licensee's professional practice. The

1 Medical Board of California, the Osteopathic Medical Board of
2 California, ~~and~~ the California Board of Podiatric Medicine, *and*
3 *the Physician Assistant Board* shall include the following statement
4 when disclosing information concerning a settlement:
5

6 “Some studies have shown that there is no significant correlation
7 between malpractice history and a doctor’s competence. At the
8 same time, the State of California believes that consumers should
9 have access to malpractice information. In these profiles, the State
10 of California has given you information about both the malpractice
11 settlement history for the doctor’s specialty and the doctor’s history
12 of settlement payments only if in the last 10 years, the doctor, if
13 in a low-risk specialty, has three or more settlements or the doctor,
14 if in a high-risk specialty, has four or more settlements. The State
15 of California has excluded some class action lawsuits because
16 those cases are commonly related to systems issues such as product
17 liability, rather than questions of individual professional
18 competence and because they are brought on a class basis where
19 the economic incentive for settlement is great. The State of
20 California has placed payment amounts into three statistical
21 categories: below average, average, and above average compared
22 to others in the doctor’s specialty. To make the best health care
23 decisions, you should view this information in perspective. You
24 could miss an opportunity for high-quality care by selecting a
25 doctor based solely on malpractice history.

26 When considering malpractice data, please keep in mind:

27 Malpractice histories tend to vary by specialty. Some specialties
28 are more likely than others to be the subject of litigation. This
29 report compares doctors only to the members of their specialty,
30 not to all doctors, in order to make an individual doctor’s history
31 more meaningful.

32 This report reflects data only for settlements made on or after
33 January 1, 2003. Moreover, it includes information concerning
34 those settlements for a 10-year period only. Therefore, you should
35 know that a doctor may have made settlements in the 10 years
36 immediately preceding January 1, 2003, that are not included in
37 this report. After January 1, 2013, for doctors practicing less than
38 10 years, the data covers their total years of practice. You should
39 take into account the effective date of settlement disclosure as well

1 as how long the doctor has been in practice when considering
2 malpractice averages.

3 The incident causing the malpractice claim may have happened
4 years before a payment is finally made. Sometimes, it takes a long
5 time for a malpractice lawsuit to settle. Some doctors work
6 primarily with high-risk patients. These doctors may have
7 malpractice settlement histories that are higher than average
8 because they specialize in cases or patients who are at very high
9 risk for problems.

10 Settlement of a claim may occur for a variety of reasons that do
11 not necessarily reflect negatively on the professional competence
12 or conduct of the doctor. A payment in settlement of a medical
13 malpractice action or claim should not be construed as creating a
14 presumption that medical malpractice has occurred.

15 You may wish to discuss information in this report and the
16 general issue of malpractice with your doctor.”

17
18 (e) The Medical Board of California, the Osteopathic Medical
19 Board of California,~~and~~ the California Board of Podiatric
20 Medicine, *and the Physician Assistant Board* shall, by regulation,
21 develop standard terminology that accurately describes the different
22 types of disciplinary filings and actions to take against a licensee
23 as described in paragraphs (1) to (5), inclusive, of subdivision (a).
24 In providing the public with information about a licensee via the
25 Internet pursuant to Section 2027, the Medical Board of California,
26 the Osteopathic Medical Board of California,~~and~~ the California
27 Board of Podiatric Medicine, *and the Physician Assistant Board*
28 shall not use the terms “enforcement,” “discipline,” or similar
29 language implying a sanction unless the physician and surgeon
30 has been the subject of one of the actions described in paragraphs
31 (1) to (5), inclusive, of subdivision (a).

32 (f) The Medical Board of California shall adopt regulations no
33 later than July 1, 2003, designating each specialty and subspecialty
34 practice area as either high risk or low risk. In promulgating these
35 regulations, the board shall consult with commercial underwriters
36 of medical malpractice insurance companies, health care systems
37 that self-insure physicians and surgeons, and representatives of
38 the California medical specialty societies. The board shall utilize
39 the carriers’ statewide data to establish the two risk categories and
40 the averages required by subparagraph (B) of paragraph (2) of

1 subdivision (b). Prior to issuing regulations, the board shall
2 convene public meetings with the medical malpractice carriers,
3 self-insurers, and specialty representatives.

4 (g) The Medical Board of California, the Osteopathic Medical
5 Board of California, ~~and~~ the California Board of Podiatric
6 Medicine, *the Physician Assistant Board* shall provide each
7 licensee, including a former licensee under subdivision (a), with
8 a copy of the text of any proposed public disclosure authorized by
9 this section prior to release of the disclosure to the public. The
10 licensee shall have 10 working days from the date the board
11 provides the copy of the proposed public disclosure to propose
12 corrections of factual inaccuracies. Nothing in this section shall
13 prevent the board from disclosing information to the public prior
14 to the expiration of the 10-day period.

15 (h) Pursuant to subparagraph (A) of paragraph (2) of subdivision
16 (b), the specialty or subspecialty information required by this
17 section shall group physicians by specialty board recognized
18 pursuant to paragraph (5) of subdivision (h) of Section 651 unless
19 a different grouping would be more valid and the board, in its
20 statement of reasons for its regulations, explains why the validity
21 of the grouping would be more valid.

22 *SEC. 7. Section 803.5 of the Business and Professions Code*
23 *is amended to read:*

24 803.5. (a) The district attorney, city attorney, or other
25 prosecuting agency shall notify the Medical Board of California,
26 the Osteopathic Medical Board of California, the California Board
27 of Podiatric Medicine, the State Board of Chiropractic Examiners,
28 *the Physician Assistant Board*, or other appropriate allied health
29 board, and the clerk of the court in which the charges have been
30 filed, of any filings against a licensee of that board charging a
31 felony immediately upon obtaining information that the defendant
32 is a licensee of the board. The notice shall identify the licensee
33 and describe the crimes charged and the facts alleged. The
34 prosecuting agency shall also notify the clerk of the court in which
35 the action is pending that the defendant is a licensee, and the clerk
36 shall record prominently in the file that the defendant holds a
37 license from one of the boards described above.

38 (b) The clerk of the court in which a licensee of one of the
39 boards is convicted of a crime shall, within 48 hours after the

1 conviction, transmit a certified copy of the record of conviction
2 to the applicable board.

3 *SEC. 8. Section 803.6 of the Business and Professions Code*
4 *is amended to read:*

5 803.6. (a) The clerk of the court shall transmit any felony
6 preliminary hearing transcript concerning a defendant licensee to
7 the Medical Board of California, the Osteopathic Medical Board
8 of California, the California Board of Podiatric Medicine, *the*
9 *Physician Assistant Board*, or other appropriate allied health board,
10 as applicable, where the total length of the transcript is under 800
11 pages and shall notify the appropriate board of any proceeding
12 where the transcript exceeds that length.

13 (b) In any case where a probation report on a licensee is prepared
14 for a court pursuant to Section 1203 of the Penal Code, a copy of
15 that report shall be transmitted by the probation officer to the board.

16 *SEC. 9. Section 805 of the Business and Professions Code is*
17 *amended to read:*

18 805. (a) As used in this section, the following terms have the
19 following definitions:

20 (1) (A) “Peer review” means both of the following:

21 (i) A process in which a peer review body reviews the basic
22 qualifications, staff privileges, employment, medical outcomes,
23 or professional conduct of licentiates to make recommendations
24 for quality improvement and education, if necessary, in order to
25 do either or both of the following:

26 (I) Determine whether a licentiate may practice or continue to
27 practice in a health care facility, clinic, or other setting providing
28 medical services, and, if so, to determine the parameters of that
29 practice.

30 (II) Assess and improve the quality of care rendered in a health
31 care facility, clinic, or other setting providing medical services.

32 (ii) Any other activities of a peer review body as specified in
33 subparagraph (B).

34 (B) “Peer review body” includes:

35 (i) A medical or professional staff of any health care facility or
36 clinic licensed under Division 2 (commencing with Section 1200)
37 of the Health and Safety Code or of a facility certified to participate
38 in the federal Medicare Program as an ambulatory surgical center.

39 (ii) A health care service plan licensed under Chapter 2.2
40 (commencing with Section 1340) of Division 2 of the Health and

1 Safety Code or a disability insurer that contracts with licentiates
2 to provide services at alternative rates of payment pursuant to
3 Section 10133 of the Insurance Code.

4 (iii) Any medical, psychological, marriage and family therapy,
5 social work, professional clinical counselor, dental, or podiatric
6 professional society having as members at least 25 percent of the
7 eligible licentiates in the area in which it functions (which must
8 include at least one county), which is not organized for profit and
9 which has been determined to be exempt from taxes pursuant to
10 Section 23701 of the Revenue and Taxation Code.

11 (iv) A committee organized by any entity consisting of or
12 employing more than 25 licentiates of the same class that functions
13 for the purpose of reviewing the quality of professional care
14 provided by members or employees of that entity.

15 (2) “Licentiate” means a physician and surgeon, doctor of
16 podiatric medicine, clinical psychologist, marriage and family
17 therapist, clinical social worker, professional clinical counselor,
18 ~~or~~ dentist, *or physician assistant*. “Licentiate” also includes a
19 person authorized to practice medicine pursuant to Section 2113
20 or 2168.

21 (3) “Agency” means the relevant state licensing agency having
22 regulatory jurisdiction over the licentiates listed in paragraph (2).

23 (4) “Staff privileges” means any arrangement under which a
24 licentiate is allowed to practice in or provide care for patients in
25 a health facility. Those arrangements shall include, but are not
26 limited to, full staff privileges, active staff privileges, limited staff
27 privileges, auxiliary staff privileges, provisional staff privileges,
28 temporary staff privileges, courtesy staff privileges, locum tenens
29 arrangements, and contractual arrangements to provide professional
30 services, including, but not limited to, arrangements to provide
31 outpatient services.

32 (5) “Denial or termination of staff privileges, membership, or
33 employment” includes failure or refusal to renew a contract or to
34 renew, extend, or reestablish any staff privileges, if the action is
35 based on medical disciplinary cause or reason.

36 (6) “Medical disciplinary cause or reason” means that aspect
37 of a licentiate’s competence or professional conduct that is
38 reasonably likely to be detrimental to patient safety or to the
39 delivery of patient care.

1 (7) “805 report” means the written report required under
2 subdivision (b).

3 (b) The chief of staff of a medical or professional staff or other
4 chief executive officer, medical director, or administrator of any
5 peer review body and the chief executive officer or administrator
6 of any licensed health care facility or clinic shall file an 805 report
7 with the relevant agency within 15 days after the effective date on
8 which any of the following occur as a result of an action of a peer
9 review body:

10 (1) A licentiate’s application for staff privileges or membership
11 is denied or rejected for a medical disciplinary cause or reason.

12 (2) A licentiate’s membership, staff privileges, or employment
13 is terminated or revoked for a medical disciplinary cause or reason.

14 (3) Restrictions are imposed, or voluntarily accepted, on staff
15 privileges, membership, or employment for a cumulative total of
16 30 days or more for any 12-month period, for a medical disciplinary
17 cause or reason.

18 (c) If a licentiate takes any action listed in paragraph (1), (2),
19 or (3) after receiving notice of a pending investigation initiated
20 for a medical disciplinary cause or reason or after receiving notice
21 that his or her application for membership or staff privileges is
22 denied or will be denied for a medical disciplinary cause or reason,
23 the chief of staff of a medical or professional staff or other chief
24 executive officer, medical director, or administrator of any peer
25 review body and the chief executive officer or administrator of
26 any licensed health care facility or clinic where the licentiate is
27 employed or has staff privileges or membership or where the
28 licentiate applied for staff privileges or membership, or sought the
29 renewal thereof, shall file an 805 report with the relevant agency
30 within 15 days after the licentiate takes the action.

31 (1) Resigns or takes a leave of absence from membership, staff
32 privileges, or employment.

33 (2) Withdraws or abandons his or her application for staff
34 privileges or membership.

35 (3) Withdraws or abandons his or her request for renewal of
36 staff privileges or membership.

37 (d) For purposes of filing an 805 report, the signature of at least
38 one of the individuals indicated in subdivision (b) or (c) on the
39 completed form shall constitute compliance with the requirement
40 to file the report.

1 (e) An 805 report shall also be filed within 15 days following
2 the imposition of summary suspension of staff privileges,
3 membership, or employment, if the summary suspension remains
4 in effect for a period in excess of 14 days.

5 (f) A copy of the 805 report, and a notice advising the licentiate
6 of his or her right to submit additional statements or other
7 information, electronically or otherwise, pursuant to Section 800,
8 shall be sent by the peer review body to the licentiate named in
9 the report. The notice shall also advise the licentiate that
10 information submitted electronically will be publicly disclosed to
11 those who request the information.

12 The information to be reported in an 805 report shall include the
13 name and license number of the licentiate involved, a description
14 of the facts and circumstances of the medical disciplinary cause
15 or reason, and any other relevant information deemed appropriate
16 by the reporter.

17 A supplemental report shall also be made within 30 days
18 following the date the licentiate is deemed to have satisfied any
19 terms, conditions, or sanctions imposed as disciplinary action by
20 the reporting peer review body. In performing its dissemination
21 functions required by Section 805.5, the agency shall include a
22 copy of a supplemental report, if any, whenever it furnishes a copy
23 of the original 805 report.

24 If another peer review body is required to file an 805 report, a
25 health care service plan is not required to file a separate report
26 with respect to action attributable to the same medical disciplinary
27 cause or reason. If the Medical Board of California or a licensing
28 agency of another state revokes or suspends, without a stay, the
29 license of a physician and surgeon, a peer review body is not
30 required to file an 805 report when it takes an action as a result of
31 the revocation or suspension.

32 (g) The reporting required by this section shall not act as a
33 waiver of confidentiality of medical records and committee reports.
34 The information reported or disclosed shall be kept confidential
35 except as provided in subdivision (c) of Section 800 and Sections
36 803.1 and 2027, provided that a copy of the report containing the
37 information required by this section may be disclosed as required
38 by Section 805.5 with respect to reports received on or after
39 January 1, 1976.

1 (h) The Medical Board of California, the Osteopathic Medical
2 Board of California, and the Dental Board of California shall
3 disclose reports as required by Section 805.5.

4 (i) An 805 report shall be maintained electronically by an agency
5 for dissemination purposes for a period of three years after receipt.

6 (j) No person shall incur any civil or criminal liability as the
7 result of making any report required by this section.

8 (k) A willful failure to file an 805 report by any person who is
9 designated or otherwise required by law to file an 805 report is
10 punishable by a fine not to exceed one hundred thousand dollars
11 (\$100,000) per violation. The fine may be imposed in any civil or
12 administrative action or proceeding brought by or on behalf of any
13 agency having regulatory jurisdiction over the person regarding
14 whom the report was or should have been filed. If the person who
15 is designated or otherwise required to file an 805 report is a
16 licensed physician and surgeon, the action or proceeding shall be
17 brought by the Medical Board of California. The fine shall be paid
18 to that agency but not expended until appropriated by the
19 Legislature. A violation of this subdivision may constitute
20 unprofessional conduct by the licensee. A person who is alleged
21 to have violated this subdivision may assert any defense available
22 at law. As used in this subdivision, “willful” means a voluntary
23 and intentional violation of a known legal duty.

24 (l) Except as otherwise provided in subdivision (k), any failure
25 by the administrator of any peer review body, the chief executive
26 officer or administrator of any health care facility, or any person
27 who is designated or otherwise required by law to file an 805
28 report, shall be punishable by a fine that under no circumstances
29 shall exceed fifty thousand dollars (\$50,000) per violation. The
30 fine may be imposed in any civil or administrative action or
31 proceeding brought by or on behalf of any agency having
32 regulatory jurisdiction over the person regarding whom the report
33 was or should have been filed. If the person who is designated or
34 otherwise required to file an 805 report is a licensed physician and
35 surgeon, the action or proceeding shall be brought by the Medical
36 Board of California. The fine shall be paid to that agency but not
37 expended until appropriated by the Legislature. The amount of the
38 fine imposed, not exceeding fifty thousand dollars (\$50,000) per
39 violation, shall be proportional to the severity of the failure to
40 report and shall differ based upon written findings, including

1 whether the failure to file caused harm to a patient or created a
2 risk to patient safety; whether the administrator of any peer review
3 body, the chief executive officer or administrator of any health
4 care facility, or any person who is designated or otherwise required
5 by law to file an 805 report exercised due diligence despite the
6 failure to file or whether they knew or should have known that an
7 805 report would not be filed; and whether there has been a prior
8 failure to file an 805 report. The amount of the fine imposed may
9 also differ based on whether a health care facility is a small or
10 rural hospital as defined in Section 124840 of the Health and Safety
11 Code.

12 (m) A health care service plan licensed under Chapter 2.2
13 (commencing with Section 1340) of Division 2 of the Health and
14 Safety Code or a disability insurer that negotiates and enters into
15 a contract with licentiates to provide services at alternative rates
16 of payment pursuant to Section 10133 of the Insurance Code, when
17 determining participation with the plan or insurer, shall evaluate,
18 on a case-by-case basis, licentiates who are the subject of an 805
19 report, and not automatically exclude or deselect these licentiates.

20 *SEC. 10. Section 2335 of the Business and Professions Code*
21 *is amended to read:*

22 2335. (a) All proposed decisions and interim orders of the
23 Medical Quality Hearing Panel designated in Section 11371 of the
24 Government Code shall be transmitted to the executive director
25 of the board, or the executive director of the California Board of
26 Podiatric Medicine as to the licensees of that board, within 48
27 hours of filing.

28 (b) All interim orders shall be final when filed.

29 (c) A proposed decision shall be acted upon by the board or by
30 any panel appointed pursuant to Section 2008 or by the California
31 Board of Podiatric Medicine, as the case may be, in accordance
32 with Section 11517 of the Government Code, except that all of the
33 following shall apply to proceedings against licensees under this
34 chapter:

35 (1) When considering a proposed decision, the board or panel
36 and the California Board of Podiatric Medicine shall give great
37 weight to the findings of fact of the administrative law judge,
38 except to the extent those findings of fact are controverted by new
39 evidence.

(2) The board's staff or the staff of the California Board of Podiatric Medicine shall poll the members of the board or panel or of the California Board of Podiatric Medicine by written mail ballot concerning the proposed decision. The mail ballot shall be sent within 10 calendar days of receipt of the proposed decision, and shall poll each member on whether the member votes to approve the decision, to approve the decision with an altered penalty, to refer the case back to the administrative law judge for the taking of additional evidence, to defer final decision pending discussion of the case by the panel or board as a whole, or to nonadopt the decision. No party to the proceeding, including employees of the agency that filed the accusation, and no person who has a direct or indirect interest in the outcome of the proceeding or who presided at a previous stage of the decision, may communicate directly or indirectly, upon the merits of a contested matter while the proceeding is pending, with any member of the panel or board, without notice and opportunity for all parties to participate in the communication. The votes of a majority of the board or of the panel, and a majority of the California Board of Podiatric Medicine, are required to approve the decision with an altered penalty, to refer the case back to the administrative law judge for the taking of further evidence, or to nonadopt the decision. The votes of two members of the panel or board are required to defer final decision pending discussion of the case by the panel or board as a whole; *except that, in the case of the California Board of Podiatric Medicine, the vote of only one member of that board is required to defer final decision pending discussion of the case by the board as a whole.* If there is a vote by the specified number to defer final decision pending discussion of the case by the panel or board as a whole, provision shall be made for that discussion before the 100-day period specified in paragraph (3) expires, but in no event shall that 100-day period be extended.

(3) If a majority of the board or of the panel, or a majority of the California Board of Podiatric Medicine vote to do so, the board or the panel or the California Board of Podiatric Medicine shall issue an order of nonadoption of a proposed decision within 100 calendar days of the date it is received by the board. If the board or the panel or the California Board of Podiatric Medicine does not refer the case back to the administrative law judge for the

1 taking of additional evidence or issue an order of nonadoption
2 within 100 calendar days, the decision shall be final and subject
3 to review under Section 2337. Members of the board or of any
4 panel or of the California Board of Podiatric Medicine who review
5 a proposed decision or other matter and vote by mail as provided
6 in paragraph (2) shall return their votes by mail to the board within
7 30 days from receipt of the proposed decision or other matter.

8 (4) The board or the panel or the California Board of Podiatric
9 Medicine shall afford the parties the opportunity to present oral
10 argument before deciding a case after nonadoption of the
11 administrative law judge's decision.

12 (5) A vote of a majority of the board or of a panel, or a majority
13 of the California Board of Podiatric Medicine, are required to
14 increase the penalty from that contained in the proposed
15 administrative law judge's decision. No member of the board or
16 panel or of the California Board of Podiatric Medicine may vote
17 to increase the penalty except after reading the entire record and
18 personally hearing any additional oral argument and evidence
19 presented to the panel or board.

20 **SECTION 1.**

21 *SEC. 11. Section 2460 of the Business and Professions Code*
22 *is amended to read:*

23 2460. (a) There is created within the jurisdiction of the Medical
24 Board of California the California Board of Podiatric Medicine.

25 (b) This section shall remain in effect only until January 1, 2017,
26 and as of that date is repealed, unless a later enacted statute, that
27 is enacted before January 1, 2017, deletes or extends that date.
28 Notwithstanding any other provision of law, the repeal of this
29 section renders the California Board of Podiatric Medicine subject
30 to review by the appropriate policy committees of the Legislature.

31 *SEC. 12. Section 2465 of the Business and Professions Code*
32 *is amended to read:*

33 2465. No person who directly or indirectly owns any interest
34 in any college, school, or other institution engaged in podiatric
35 medical instruction shall be appointed to the board ~~or~~ nor shall
36 any incumbent member of the board have or acquire any interest,
37 direct or indirect, in any such college, school, or institution.

38 *SEC. 13. Section 2470 of the Business and Professions Code*
39 *is amended to read:*

1 2470. The board may adopt, amend, or repeal, in accordance
2 with the provisions of the Administrative Procedure Act (*Chapter*
3 *3.5 (commencing with Section 11340 of Part 1 of Division 1 of*
4 *Title 2 of the Government Code*, regulations necessary to enable
5 the board to carry into effect the provisions of law relating to the
6 practice of podiatric medicine.

7 *SEC. 14. Section 2472 of the Business and Professions Code*
8 *is amended to read:*

9 2472. (a) The certificate to practice podiatric medicine
10 authorizes the holder to practice podiatric medicine.

11 (b) As used in this chapter, “podiatric medicine” means the
12 diagnosis, medical, surgical, mechanical, manipulative, and
13 electrical treatment of the human foot, including the ankle and
14 tendons that insert into the foot and the nonsurgical treatment of
15 the muscles and tendons of the leg governing the functions of the
16 foot.

17 (c) A doctor of podiatric medicine may not administer an
18 anesthetic other than local. If an anesthetic other than local is
19 required for any procedure, the anesthetic shall be administered
20 by another licensed health care practitioner who is authorized to
21 administer the required anesthetic within the scope of his or her
22 practice.

23 (d) (1) A doctor of podiatric medicine ~~who is ankle-certified~~
24 ~~by the board on and after January 1, 1984,~~ may do the following:

25 (A) Perform surgical treatment of the ankle and tendons at the
26 level of the ankle pursuant to subdivision (e).

27 (B) Perform services under the direct supervision of a physician
28 and surgeon, as an assistant at surgery, in surgical procedures that
29 are otherwise beyond the scope of practice of a doctor of podiatric
30 medicine.

31 (C) Perform a partial amputation of the foot no further proximal
32 than the Chopart’s joint.

33 (2) Nothing in this subdivision shall be construed to permit a
34 doctor of podiatric medicine to function as a primary surgeon for
35 any procedure beyond his or her scope of practice.

36 (e) A doctor of podiatric medicine may perform surgical
37 treatment of the ankle and tendons at the level of the ankle only
38 in the following locations:

39 (1) A licensed general acute care hospital, as defined in Section
40 1250 of the Health and Safety Code.

(2) A licensed surgical clinic, as defined in Section 1204 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical clinic.

(3) An ambulatory surgical center that is certified to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1) and meets all the protocols of the surgical center.

(4) A freestanding physical plant housing outpatient services of a licensed general acute care hospital, as defined in Section 1250 of the Health and Safety Code, if the doctor of podiatric medicine has surgical privileges, including the privilege to perform surgery on the ankle, in a general acute care hospital described in paragraph (1). For purposes of this section, a “freestanding physical plant” means any building that is not physically attached to a building where inpatient services are provided.

(5) An outpatient setting accredited pursuant to subdivision (g) of Section 1248.1 of the Health and Safety Code.

~~(f) A doctor of podiatric medicine shall not perform an admitting history and physical examination of a patient in an acute care hospital where doing so would violate the regulations governing the Medicare program.~~

~~(g) A doctor of podiatric medicine licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.~~

SEC. 15. Section 2475 of the Business and Professions Code is amended to read:

2475. Unless otherwise provided by law, no postgraduate trainee, intern, resident postdoctoral fellow, or instructor may engage in the practice of podiatric medicine, or receive compensation therefor, or offer to engage in the practice of podiatric medicine unless he or she holds a valid, unrevoked, and unsuspended certificate to practice podiatric medicine issued by the division. However, a graduate of an approved college or school of podiatric medicine upon whom the degree doctor of podiatric

1 medicine has been conferred, who is issued a resident's license,
2 which may be renewed annually ~~for up to four years~~ for this
3 purpose by the division upon recommendation of the board, and
4 who is enrolled in a postgraduate training program approved by
5 the board, may engage in the practice of podiatric medicine
6 whenever and wherever required as a part of that program and may
7 receive compensation for that practice under the following
8 conditions:

9 (a) A graduate with a resident's license in an approved
10 internship, residency, or fellowship program may participate in
11 training rotations outside the scope of podiatric medicine, under
12 the supervision of a physician and surgeon who holds a medical
13 doctor or doctor of osteopathy degree wherever and whenever
14 required as a part of the training program, and may receive
15 compensation for that practice. If the graduate fails to receive a
16 license to practice podiatric medicine under this chapter within
17 three years from the commencement of the postgraduate training,
18 all privileges and exemptions under this section shall automatically
19 cease.

20 (b) Hospitals functioning as a part of the teaching program of
21 an approved college or school of podiatric medicine in this state
22 may exchange instructors or resident or assistant resident doctors
23 of podiatric medicine with another approved college or school of
24 podiatric medicine not located in this state, or those hospitals may
25 appoint a graduate of an approved school as such a resident for
26 purposes of postgraduate training. Those instructors and residents
27 may practice and be compensated as provided in this section, but
28 that practice and compensation shall be for a period not to exceed
29 two years.

30 *SEC. 16. Section 2477 of the Business and Professions Code*
31 *is amended to read:*

32 2477. Nothing in this chapter prohibits the manufacture, the
33 recommendation, or the sale of either corrective shoes or appliances
34 for the human feet *to enhance comfort and performance, or,*
35 *following diagnosis and prescription by a licensed practitioner in*
36 *any case involving medical conditions.*

37 *SEC. 17. Section 2484 of the Business and Professions Code*
38 *is amended to read:*

39 2484. In addition to any other requirements of this chapter,
40 before a certificate to practice podiatric medicine may be issued,

1 each applicant shall show by evidence satisfactory to the board,
2 submitted directly to the board by the sponsoring institution, that
3 he or she has satisfactorily completed at least two years of
4 postgraduate podiatric medical and podiatric surgical training in
5 a general acute care hospital approved by the Council of on
6 Podiatric Medical Education.

7 *SEC. 18. Section 2493 of the Business and Professions Code*
8 *is amended to read:*

9 2493. (a) An applicant for a certificate to practice podiatric
10 medicine shall pass an examination in the subjects required by
11 Section 2483 in order to ensure a minimum of entry-level
12 competence.

13 ~~(b) The board shall require a passing score on the National Board~~
14 ~~of Podiatric Medical Examiners Part III examination that is~~
15 ~~consistent with the postgraduate training requirement in Section~~
16 ~~2484. The board, as of July 1, 2005, shall require a passing score~~
17 ~~one standard error of measurement higher than the national passing~~
18 ~~scale score until such time as the National Board of Podiatric~~
19 ~~Medical Examiners recommends a higher passing score consistent~~
20 ~~with Section 2484. In consultation with the Office of Professional~~
21 ~~Examination Services of the Department of Consumer Affairs, the~~
22 ~~board shall ensure that the part III examination adequately evaluates~~
23 ~~the full scope of practice established by Section 2472, including~~
24 ~~amputation and other foot and ankle surgical procedures, pursuant~~
25 ~~to Section 139.~~

26 *SEC. 19. Section 2496 of the Business and Professions Code*
27 *is amended to read:*

28 2496. In order to ensure the continuing competence of persons
29 licensed to practice podiatric medicine, the board shall adopt and
30 administer regulations in accordance with the Administrative
31 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
32 Part 1 of Division 3 of Title 2 of the Government Code) requiring
33 continuing education of those licensees. The board shall require
34 those licensees to demonstrate satisfaction of the continuing
35 education requirements and one of the following requirements at
36 each license renewal:

37 (a) Passage of an examination administered by the board within
38 the past 10 years.

39 (b) Passage of an examination administered by an approved
40 specialty certifying board within the past 10 years.

1 (c) Current diplomate, board-eligible, or board-qualified status
2 granted by an approved specialty certifying board within the past
3 10 years.

4 (d) Recertification of current status by an approved specialty
5 certifying board within the past 10 years.

6 (e) Successful completion of an approved residency or
7 fellowship program within the past 10 years.

8 (f) Granting or renewal of current staff privileges within the
9 past five years by a health care facility that is licensed, certified,
10 accredited, conducted, maintained, operated, or otherwise approved
11 by an agency of the federal or state government or an organization
12 approved by the Medical Board of California.

13 (g) Successful completion within the past five years of an
14 extended course of study approved by the board.

15 (h) Passage within the past 10 years of Part III of the
16 examination administered by the National Board of Podiatric
17 Medical Examiners.

18 *SEC. 20. Section 2497.5 of the Business and Professions Code*
19 *is amended to read:*

20 2497.5. (a) The board may request the administrative law
21 judge, under his or her proposed decision in resolution of a
22 disciplinary proceeding before the board, to direct any licensee
23 found guilty of unprofessional conduct to pay to the board a sum
24 not to exceed the actual and reasonable costs of the investigation
25 and prosecution of the case.

26 (b) The costs to be assessed shall be fixed by the administrative
27 law judge and shall not ~~in any event~~ be increased by the board:
28 ~~When the board does not adopt a proposed decision and remands~~
29 ~~the case to an administrative law judge, the administrative law~~
30 ~~judge shall not increase the amount of any costs assessed in the~~
31 ~~proposed decision unless the board does not adopt a proposed~~
32 ~~decision and in making its own decision finds grounds for~~
33 ~~increasing the costs to be assessed, not to exceed the actual and~~
34 ~~reasonable costs of the investigation and prosecution of the case.~~

35 (c) When the payment directed in the board's order for payment
36 of costs is not made by the licensee, the board may enforce the
37 order for payment by bringing an action in any appropriate court.
38 This right of enforcement shall be in addition to any other rights
39 the board may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one year period for those unpaid costs.

(f) All costs recovered under this section shall be deposited in the Board of Podiatric Medicine Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct.

SEC. 21. Section 3501 of the Business and Professions Code is amended to read:

3501. (a) As used in this chapter:

(1) "Board" means the ~~Medical Board of California~~ *Physician Assistant Board*.

(2) "Approved program" means a program for the education of physician assistants that has been formally approved by the committee.

(3) "Trainee" means a person who is currently enrolled in an approved program.

(4) "Physician assistant" means a person who meets the requirements of this chapter and is licensed by the committee.

(5) "Supervising physician" means a physician and surgeon licensed by the ~~board~~ *Medical Board of California* or by the Osteopathic Medical Board of California who supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation for improper use of a physician assistant.

(6) "Supervision" means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant.

~~(7) "Committee" or "examining committee" means the Physician Assistant Committee.~~

(8)

1 (7) “Regulations” means the rules and regulations as set forth
2 in Chapter 13.8 (commencing with Section 1399.500) of Title 16
3 of the California Code of Regulations.

4 ~~(9)~~

5 (8) “Routine visual screening” means uninvase
6 nonpharmacological simple testing for visual acuity, visual field
7 defects, color blindness, and depth perception.

8 ~~(10)~~

9 (9) “Program manager” means the staff manager of the diversion
10 program, as designated by the executive officer of the ~~board~~
11 *Medical Board of California*. The program manager shall have
12 background experience in dealing with substance abuse issues.

13 ~~(11)~~

14 (10) “Delegation of services agreement” means the writing that
15 delegates to a physician assistant from a supervising physician the
16 medical services the physician assistant is authorized to perform
17 consistent with subdivision (a) of Section 1399.540 of Title 16 of
18 the California Code of Regulations.

19 ~~(12)~~

20 (11) “Other specified medical services” means tests or
21 examinations performed or ordered by a physician assistant
22 practicing in compliance with this chapter or regulations of the
23 ~~board~~ *Medical Board of California* promulgated under this chapter.

24 (b) A physician assistant acts as an agent of the supervising
25 physician when performing any activity authorized by this chapter
26 or regulations promulgated by the board under this chapter.

27 *SEC. 22. Section 3502 of the Business and Professions Code*
28 *is amended to read:*

29 3502. (a) Notwithstanding any other provision of law, a
30 physician assistant may perform those medical services as set forth
31 by the regulations of the ~~board~~ *Medical Board of California* when
32 the services are rendered under the supervision of a licensed
33 physician and surgeon who is not subject to a disciplinary condition
34 imposed by the ~~board~~ *Medical Board of California* prohibiting
35 that supervision or prohibiting the employment of a physician
36 assistant.

37 (b) Notwithstanding any other provision of law, a physician
38 assistant performing medical services under the supervision of a
39 physician and surgeon may assist a doctor of podiatric medicine
40 who is a partner, shareholder, or employee in the same medical

1 group as the supervising physician and surgeon. A physician
2 assistant who assists a doctor of podiatric medicine pursuant to
3 this subdivision shall do so only according to patient-specific orders
4 from the supervising physician and surgeon.

5 The supervising physician and surgeon shall be physically
6 available to the physician assistant for consultation when such
7 assistance is rendered. A physician assistant assisting a doctor of
8 podiatric medicine shall be limited to performing those duties
9 included within the scope of practice of a doctor of podiatric
10 medicine.

11 (c) (1) A physician assistant and his or her supervising physician
12 and surgeon shall establish written guidelines for the adequate
13 supervision of the physician assistant. This requirement may be
14 satisfied by the supervising physician and surgeon adopting
15 protocols for some or all of the tasks performed by the physician
16 assistant. The protocols adopted pursuant to this subdivision shall
17 comply with the following requirements:

18 (A) A protocol governing diagnosis and management shall, at
19 a minimum, include the presence or absence of symptoms, signs,
20 and other data necessary to establish a diagnosis or assessment,
21 any appropriate tests or studies to order, drugs to recommend to
22 the patient, and education to be provided to the patient.

23 (B) A protocol governing procedures shall set forth the
24 information to be provided to the patient, the nature of the consent
25 to be obtained from the patient, the preparation and technique of
26 the procedure, and the followup care.

27 (C) Protocols shall be developed by the supervising physician
28 and surgeon or adopted from, or referenced to, texts or other
29 sources.

30 (D) Protocols shall be signed and dated by the supervising
31 physician and surgeon and the physician assistant.

32 (2) The supervising physician and surgeon shall review,
33 countersign, and date a sample consisting of, at a minimum, 5
34 percent of the medical records of patients treated by the physician
35 assistant functioning under the protocols within 30 days of the date
36 of treatment by the physician assistant. The physician and surgeon
37 shall select for review those cases that by diagnosis, problem,
38 treatment, or procedure represent, in his or her judgment, the most
39 significant risk to the patient.

1 (3) Notwithstanding any other provision of law, the ~~board~~
2 *Medical Board of California* or ~~committee~~ *board* may establish
3 other alternative mechanisms for the adequate supervision of the
4 physician assistant.

5 (d) No medical services may be performed under this chapter
6 in any of the following areas:

7 (1) The determination of the refractive states of the human eye,
8 or the fitting or adaptation of lenses or frames for the aid thereof.

9 (2) The prescribing or directing the use of, or using, any optical
10 device in connection with ocular exercises, visual training, or
11 orthoptics.

12 (3) The prescribing of contact lenses for, or the fitting or
13 adaptation of contact lenses to, the human eye.

14 (4) The practice of dentistry or dental hygiene or the work of a
15 dental auxiliary as defined in Chapter 4 (commencing with Section
16 1600).

17 (e) This section shall not be construed in a manner that shall
18 preclude the performance of routine visual screening as defined
19 in Section 3501.

20 *SEC. 23. Section 3502.1 of the Business and Professions Code*
21 *is amended to read:*

22 3502.1. (a) In addition to the services authorized in the
23 regulations adopted by the ~~board~~ *Medical Board of California*,
24 and except as prohibited by Section 3502, while under the
25 supervision of a licensed physician and surgeon or physicians and
26 surgeons authorized by law to supervise a physician assistant, a
27 physician assistant may administer or provide medication to a
28 patient, or transmit orally, or in writing on a patient's record or in
29 a drug order, an order to a person who may lawfully furnish the
30 medication or medical device pursuant to subdivisions (c) and (d).

31 (1) A supervising physician and surgeon who delegates authority
32 to issue a drug order to a physician assistant may limit this authority
33 by specifying the manner in which the physician assistant may
34 issue delegated prescriptions.

35 (2) Each supervising physician and surgeon who delegates the
36 authority to issue a drug order to a physician assistant shall first
37 prepare and adopt, or adopt, a written, practice specific, formulary
38 and protocols that specify all criteria for the use of a particular
39 drug or device, and any contraindications for the selection.
40 Protocols for Schedule II controlled substances shall address the

1 diagnosis of illness, injury, or condition for which the Schedule II
2 controlled substance is being administered, provided, or issued.
3 The drugs listed in the protocols shall constitute the formulary and
4 shall include only drugs that are appropriate for use in the type of
5 practice engaged in by the supervising physician and surgeon.
6 When issuing a drug order, the physician assistant is acting on
7 behalf of and as an agent for a supervising physician and surgeon.

8 (b) “Drug order” for purposes of this section means an order
9 for medication that is dispensed to or for a patient, issued and
10 signed by a physician assistant acting as an individual practitioner
11 within the meaning of Section 1306.02 of Title 21 of the Code of
12 Federal Regulations. Notwithstanding any other provision of law,
13 (1) a drug order issued pursuant to this section shall be treated in
14 the same manner as a prescription or order of the supervising
15 physician, (2) all references to “prescription” in this code and the
16 Health and Safety Code shall include drug orders issued by
17 physician assistants pursuant to authority granted by their
18 supervising physicians and surgeons, and (3) the signature of a
19 physician assistant on a drug order shall be deemed to be the
20 signature of a prescriber for purposes of this code and the Health
21 and Safety Code.

22 (c) A drug order for any patient cared for by the physician
23 assistant that is issued by the physician assistant shall either be
24 based on the protocols described in subdivision (a) or shall be
25 approved by the supervising physician and surgeon before it is
26 filled or carried out.

27 (1) A physician assistant shall not administer or provide a drug
28 or issue a drug order for a drug other than for a drug listed in the
29 formulary without advance approval from a supervising physician
30 and surgeon for the particular patient. At the direction and under
31 the supervision of a physician and surgeon, a physician assistant
32 may hand to a patient of the supervising physician and surgeon a
33 properly labeled prescription drug prepackaged by a physician and
34 surgeon, manufacturer as defined in the Pharmacy Law, or a
35 pharmacist.

36 (2) A physician assistant may not administer, provide, or issue
37 a drug order to a patient for Schedule II through Schedule V
38 controlled substances without advance approval by a supervising
39 physician and surgeon for that particular patient unless the
40 physician assistant has completed an education course that covers

1 controlled substances and that meets standards, including
2 pharmacological content, approved by the committee. The
3 education course shall be provided either by an accredited
4 continuing education provider or by an approved physician assistant
5 training program. If the physician assistant will administer, provide,
6 or issue a drug order for Schedule II controlled substances, the
7 course shall contain a minimum of three hours exclusively on
8 Schedule II controlled substances. Completion of the requirements
9 set forth in this paragraph shall be verified and documented in the
10 manner established by the committee prior to the physician
11 assistant's use of a registration number issued by the United States
12 Drug Enforcement Administration to the physician assistant to
13 administer, provide, or issue a drug order to a patient for a
14 controlled substance without advance approval by a supervising
15 physician and surgeon for that particular patient.

16 (3) Any drug order issued by a physician assistant shall be
17 subject to a reasonable quantitative limitation consistent with
18 customary medical practice in the supervising physician and
19 surgeon's practice.

20 (d) A written drug order issued pursuant to subdivision (a),
21 except a written drug order in a patient's medical record in a health
22 facility or medical practice, shall contain the printed name, address,
23 and phone number of the supervising physician and surgeon, the
24 printed or stamped name and license number of the physician
25 assistant, and the signature of the physician assistant. Further, a
26 written drug order for a controlled substance, except a written drug
27 order in a patient's medical record in a health facility or a medical
28 practice, shall include the federal controlled substances registration
29 number of the physician assistant and shall otherwise comply with
30 the provisions of Section 11162.1 of the Health and Safety Code.
31 Except as otherwise required for written drug orders for controlled
32 substances under Section 11162.1 of the Health and Safety Code,
33 the requirements of this subdivision may be met through stamping
34 or otherwise imprinting on the supervising physician and surgeon's
35 prescription blank to show the name, license number, and if
36 applicable, the federal controlled substances number of the
37 physician assistant, and shall be signed by the physician assistant.
38 When using a drug order, the physician assistant is acting on behalf
39 of and as the agent of a supervising physician and surgeon.

(e) The medical record of any patient cared for by a physician assistant for whom the physician assistant's Schedule II drug order has been issued or carried out shall be reviewed and countersigned and dated by a supervising physician and surgeon within seven days.

(f) All physician assistants who are authorized by their supervising physicians to issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration (DEA).

(g) The ~~committee~~ *board* shall consult with the Medical Board of California and report during its sunset review required by Division 1.2 (commencing with Section 473) the impacts of exempting Schedule III and Schedule IV drug orders from the requirement for a physician and surgeon to review and countersign the affected medical record of a patient.

SEC. 24. Section 3502.3 of the Business and Professions Code is amended to read:

3502.3. (a) Notwithstanding any other provision of law, in addition to any other practices that meet the general criteria set forth in this chapter or the ~~board's~~ *Medical Board of California's* regulations for inclusion in a delegation of services agreement, a delegation of services agreement may authorize a physician assistant to do any of the following:

(1) Order durable medical equipment, subject to any limitations set forth in Section 3502 or the delegation of services agreement. Notwithstanding that authority, nothing in this paragraph shall operate to limit the ability of a third-party payer to require prior approval.

(2) For individuals receiving home health services or personal care services, after consultation with the supervising physician, approve, sign, modify, or add to a plan of treatment or plan of care.

(b) Nothing in this section shall be construed to affect the validity of any delegation of services agreement in effect prior to the enactment of this section or those adopted subsequent to enactment.

SEC. 25. Section 3502.5 of the Business and Professions Code is amended to read:

3502.5. Notwithstanding any other provision of law, a physician assistant may perform those medical services permitted pursuant to Section 3502 during any state of war emergency, state of

emergency, or state of local emergency, as defined in Section 8558 of the Government Code, and at the request of a responsible federal, state, or local official or agency, or pursuant to the terms of a mutual aid operation plan established and approved pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), regardless of whether the physician assistant's approved supervising physician is available to supervise the physician assistant, so long as a licensed physician is available to render the appropriate supervision. "Appropriate supervision" shall not require the personal or electronic availability of a supervising physician if that availability is not possible or practical due to the emergency. The local health officers and their designees may act as supervising physicians during emergencies without being subject to approval by the ~~board~~ *Medical Board of California*. At all times, the local health officers or their designees supervising the physician assistants shall be licensed physicians and surgeons. Supervising physicians acting pursuant to this section shall not be subject to the limitation on the number of physician assistants supervised under Section 3516.

No responsible official or mutual aid operation plan shall invoke this section except in the case of an emergency that endangers the health of individuals. Under no circumstances shall this section be invoked as the result of a labor dispute or other dispute concerning collective bargaining.

~~SEC. 2.~~

SEC. 26. Section 3504 of the Business and Professions Code is amended to read:

3504. There is established a Physician Assistant ~~Committee~~ *board within the jurisdiction* of the Medical Board of California. The ~~committee~~ *board* consists of nine members. This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date. Notwithstanding any other provision of law, the repeal of this section renders the ~~committee board~~ subject to review by the appropriate policy committees of the Legislature.

SEC. 27. Section 3504.1 of the Business and Professions Code is amended to read:

1 3504.1. Protection of the public shall be the highest priority
2 for the Physician Assistant ~~Committee of the Medical Board of~~
3 ~~California~~ in exercising its licensing, regulatory, and disciplinary
4 functions. Whenever the protection of the public is inconsistent
5 with other interests sought to be promoted, the protection of the
6 public shall be paramount.

7 *SEC. 28. Section 3505 of the Business and Professions Code*
8 *is amended to read:*

9 3505. The members of the ~~committee board~~ shall include ~~one~~
10 ~~member of the Medical Board of California, a physician~~
11 ~~representative of a California medical school, an educator~~
12 ~~participating in an approved program for the training of physician~~
13 ~~assistants, a physician who is an approved supervising physician~~
14 ~~of a physician assistant and who is not a member of any division~~
15 ~~of the Medical Board of California, three physician assistants, and~~
16 ~~two public members. Upon the first expiration of the term of the~~
17 ~~member who is a member of the Medical Board of California, that~~
18 ~~position shall be filled by a member of the Medical Board of~~
19 ~~California who is a physician member. Upon the first expiration~~
20 ~~of the term of the member who is a physician representative of a~~
21 ~~California medical school, that position shall be filled by a public~~
22 ~~member. Upon the first expiration of the term of the member who~~
23 ~~is an educator participating in an approved program for the training~~
24 ~~of physician assistants, that position shall be filled by a physician~~
25 ~~assistant. Upon the first expiration of the term of the member who~~
26 ~~is an approved supervising physician of a physician assistant and~~
27 ~~not a member of any division of the Medical Board of California,~~
28 ~~that position shall be filled by a public member. Following the~~
29 ~~expiration of the terms of the members described above, the~~
30 ~~committee shall include~~ four physician assistants, one physician
31 *and surgeon* who is also a member of the Medical Board of
32 California, and four public members. *Upon the expiration of the*
33 *term of the member who is a member of the Medical Board of*
34 *California, that position shall be filled by a physician assistant.*
35 *Following the expiration of the term of the member described*
36 *above, the board shall include five physician assistants and four*
37 *public members.*

38 Each member of the ~~committee board~~ shall hold office for a
39 term of four years expiring on January 1st, and shall serve until
40 the appointment and qualification of a successor or until one year

1 shall have elapsed since the expiration of the term for which the
2 member was appointed, whichever first occurs. No member shall
3 serve for more than two consecutive terms. Vacancies shall be
4 filled by appointment for the unexpired terms.

5 The Governor shall appoint the licensed members qualified as
6 provided in this section and two public members. The Senate Rules
7 Committee and the Speaker of the Assembly shall each appoint a
8 public member.

9 *SEC. 29. Section 3506 of the Business and Professions Code*
10 *is amended to read:*

11 3506. Each member of the ~~committee board~~ shall receive a
12 per diem and expenses as provided in Section 103.

13 *SEC. 30. Section 3507 of the Business and Professions Code*
14 *is amended to read:*

15 3507. The appointing power has power to remove from office
16 any member of the ~~committee board~~, as provided in Section 106.

17 *SEC. 31. Section 3508 of the Business and Professions Code*
18 *is amended to read:*

19 3508. (a) The ~~committee board~~ may convene from time to
20 time as deemed necessary by the ~~committee board~~.

21 (b) Notice of each meeting of the ~~committee board~~ shall be
22 given at least two weeks in advance to those persons and
23 organizations who express an interest in receiving notification.

24 (c) The ~~committee board~~ shall receive permission of the director
25 to meet more than six times annually. The director shall approve
26 meetings that are necessary for the ~~committee board~~ to fulfill its
27 legal responsibilities.

28 *SEC. 32. Section 3509 of the Business and Professions Code*
29 *is amended to read:*

30 3509. It shall be the duty of the ~~committee board~~ to:

31 (a) Establish standards and issue licenses of approval for
32 programs for the education and training of physician assistants.

33 (b) Make recommendations to the ~~board~~ *Medical Board of*
34 *California* concerning the scope of practice for physician assistants.

35 (c) Make recommendations to the ~~board~~ *Medical Board of*
36 *California* concerning the formulation of guidelines for the
37 consideration of applications by licensed physicians to supervise
38 physician assistants and approval of such applications.

39 (d) Require the examination of applicants for licensure as a
40 physician assistant who meet the requirements of this chapter.

1 *SEC. 33. Section 3509.5 of the Business and Professions Code*
2 *is amended to read:*

3 3509.5. The ~~committee~~ board shall elect annually a chairperson
4 and a vice chairperson from among its members.

5 *SEC. 34. Section 3510 of the Business and Professions Code*
6 *is amended to read:*

7 3510. The ~~committee~~ board may adopt, amend, and repeal
8 regulations as may be necessary to enable it to carry into effect
9 the provisions of this chapter; provided, however, that the ~~board~~
10 *Medical Board of California* shall adopt, amend, and repeal such
11 regulations as may be necessary to enable it to implement the
12 provisions of this chapter under its jurisdiction. All regulations
13 shall be in accordance with, and not inconsistent with, the
14 provisions of this chapter. Such regulations shall be adopted,
15 amended, or repealed in accordance with the provisions of Chapter
16 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
17 Title 2 of the Government Code.

18 *SEC. 35. Section 3511 of the Business and Professions Code*
19 *is amended to read:*

20 3511. Five members shall constitute a quorum for transacting
21 any business. The affirmative vote of a majority of those present
22 at a meeting of the ~~committee~~ board shall be required to carry any
23 motion.

24 ~~SEC. 3.~~

25 *SEC. 36. Section 3512 of the Business and Professions Code*
26 *is amended to read:*

27 3512. (a) Except as provided in Sections 159.5 and 2020, the
28 ~~committee~~ board shall employ within the limits of the Physician
29 Assistant Fund all personnel necessary to carry out the provisions
30 of this chapter including an executive officer who shall be exempt
31 from civil service. The ~~board~~ *Medical Board of California* and
32 ~~committee~~ board shall make all necessary expenditures to carry
33 out the provisions of this chapter from the funds established by
34 Section 3520. The ~~committee~~ board may accept contributions to
35 effect the purposes of this chapter.

36 (b) This section shall remain in effect only until January 1, 2017,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2017, deletes or extends that date.

39 *SEC. 37. Section 3513 of the Business and Professions Code*
40 *is amended to read:*

1 3513. The ~~committee board~~ shall recognize the approval of
2 training programs for physician assistants approved by a national
3 accrediting organization. Physician assistant training programs
4 accredited by a national accrediting agency approved by the
5 ~~committee board~~ shall be deemed approved by the ~~committee~~
6 ~~board~~ under this section. If no national accrediting organization
7 is approved by the ~~committee board~~, the ~~committee board~~ may
8 examine and pass upon the qualification of, and may issue
9 certificates of approval for, programs for the education and training
10 of physician assistants that meet ~~committee board~~ standards.

11 SEC. 38. *Section 3514.1 of the Business and Professions Code*
12 *is amended to read:*

13 3514.1. (a) The ~~committee board~~ shall formulate by regulation
14 guidelines for the consideration of applications for licensure as a
15 physician's assistant.

16 (b) The ~~committee board~~ shall formulate by regulation
17 guidelines for the approval of physician's assistant training
18 programs.

19 ~~(c) This section shall become operative on July 1, 2001.~~

20 SEC. 39. *Section 3516 of the Business and Professions Code*
21 *is amended to read:*

22 3516. (a) Notwithstanding any other provision of law, a
23 physician assistant licensed by the ~~committee board~~ shall be
24 eligible for employment or supervision by any physician and
25 surgeon who is not subject to a disciplinary condition imposed by
26 the ~~board~~ *Medical Board of California* prohibiting that employment
27 or supervision.

28 (b) No physician and surgeon shall supervise more than four
29 physician assistants at any one time, except as provided in Section
30 3502.5.

31 (c) The ~~board~~ *Medical Board of California* may restrict a
32 physician and surgeon to supervising specific types of physician
33 assistants including, but not limited to, restricting a physician and
34 surgeon from supervising physician assistants outside of the field
35 of specialty of the physician and surgeon.

36 SEC. 40. *Section 3516.5 of the Business and Professions Code*
37 *is amended to read:*

38 3516.5. (a) Notwithstanding any other provision of law and
39 in accordance with regulations established by the ~~board~~ *Medical*
40 *Board of California*, the director of emergency care services in a

1 hospital with an approved program for the training of emergency
2 care physician assistants, may apply to the ~~board~~ *Medical Board*
3 *of California* for authorization under which the director may grant
4 approval for emergency care physicians on the staff of the hospital
5 to supervise emergency care physician assistants.

6 (b) The application shall encompass all supervising physicians
7 employed in that service.

8 (c) Nothing in this section shall be construed to authorize any
9 one emergency care physician while on duty to supervise more
10 than four physician assistants at any one time.

11 (d) A violation of this section by the director of emergency care
12 services in a hospital with an approved program for the training
13 of emergency care physician assistants constitutes unprofessional
14 conduct within the meaning of Chapter 5 (commencing with
15 Section 2000).

16 (e) A violation of this section shall be grounds for suspension
17 of the approval of the director or disciplinary action against the
18 director or suspension of the approved program under Section
19 3527.

20 *SEC. 41. Section 3517 of the Business and Professions Code*
21 *is amended to read:*

22 3517. The ~~committee~~ *board* shall require a written examination
23 of physician assistants in the manner and under the rules and
24 regulations as it shall prescribe, but the examination shall be
25 conducted in that manner as to ensure that the identity of each
26 applicant taking the examination will be unknown to all of the
27 examiners until all examination papers have been graded. Except
28 as otherwise provided in this chapter, or by regulation, no physician
29 assistant applicant shall receive approval under this chapter without
30 first successfully passing an examination given under the direction
31 of the ~~committee~~ *board*.

32 Examinations for licensure as a physician assistant may be
33 required by the ~~committee~~ *board* under a uniform examination
34 system, and for that purpose the ~~committee~~ *board* may make those
35 arrangements with organizations furnishing examination material
36 as may, in its discretion, be desirable. The ~~committee~~ *board* shall,
37 however, establish a passing score for each examination. The
38 licensure examination for physician assistants shall be held by the
39 ~~committee~~ *board* at least once a year with such additional

1 examinations as the ~~committee~~ *board* deems necessary. The time
2 and place of examination shall be fixed by the ~~committee~~ *board*.

3 *SEC. 42. Section 3518 of the Business and Professions Code*
4 *is amended to read:*

5 3518. The ~~committee~~ *board* shall keep current, two separate
6 registers, one for approved supervising physicians and one for
7 licensed physician's assistants, by specialty if applicable. These
8 registers shall show the name of each licensee, his or her last
9 known address of record, and the date of his or her licensure or
10 approval. Any interested person is entitled to obtain a copy of the
11 register in accordance with the Information Practices Act of 1977
12 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
13 4 of Division 3 of the Civil Code) upon application to the
14 ~~committee~~ *board* together with a sum as may be fixed by the
15 ~~committee~~ *board*, which amount shall not exceed the cost of this
16 list so furnished.

17 *SEC. 43. Section 3519 of the Business and Professions Code*
18 *is amended to read:*

19 3519. The ~~committee~~ *board* shall issue under the name of the
20 Medical Board of California a license to all physician assistant
21 applicants who meet all of the following requirements:

22 (a) Provide evidence of successful completion of an approved
23 program.

24 (b) Pass any examination required under Section 3517.

25 (c) Not be subject to denial of licensure under Division 1.5
26 (commencing with Section 475) or Section 3527.

27 (d) Pay all fees required under Section 3521.1.

28 *SEC. 44. Section 3519.5 of the Business and Professions Code*
29 *is amended to read:*

30 3519.5. (a) The ~~committee~~ *board* may issue under the name
31 of the ~~board~~ *Medical Board of California* a probationary license
32 to an applicant subject to terms and conditions, including, but not
33 limited to, any of the following conditions of probation:

34 (1) Practice limited to a supervised, structured environment
35 where the applicant's activities shall be supervised by another
36 physician assistant.

37 (2) Total or partial restrictions on issuing a drug order for
38 controlled substances.

39 (3) Continuing medical or psychiatric treatment.

40 (4) Ongoing participation in a specified rehabilitation program.

1 (5) Enrollment and successful completion of a clinical training
2 program.

3 (6) Abstention from the use of alcohol or drugs.

4 (7) Restrictions against engaging in certain types of medical
5 services.

6 (8) Compliance with all provisions of this chapter.

7 (b) The ~~committee board~~ and the ~~board~~ *Medical Board of*
8 *California* may modify or terminate the terms and conditions
9 imposed on the probationary license upon receipt of a petition
10 from the licensee.

11 (c) Enforcement and monitoring of the probationary conditions
12 shall be under the jurisdiction of the ~~committee board~~ and the
13 ~~board~~ *Medical Board of California*. These proceedings shall be
14 conducted in accordance with Chapter 5 (commencing with Section
15 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

16 *SEC. 45. Section 3520 of the Business and Professions Code*
17 *is amended to read:*

18 3520. Within 10 days after the beginning of each calendar
19 month the ~~board~~ *Medical Board of California* shall report to the
20 Controller the amount and source of all collections made under
21 this chapter and at the same time pay all those sums into the State
22 Treasury, where they shall be credited to the Physician Assistant
23 Fund, which fund is hereby created. All money in the fund shall
24 be used to carry out the purpose of this chapter.

25 *SEC. 46. Section 3521 of the Business and Professions Code*
26 *is amended to read:*

27 3521. The fees to be paid for approval to supervise physician
28 assistants are to be set by the ~~committee board~~ as follows:

29 (a) An application fee not to exceed fifty dollars (\$50) shall be
30 charged to each physician and surgeon applicant.

31 (b) An approval fee not to exceed two hundred fifty dollars
32 (\$250) shall be charged to each physician and surgeon upon
33 approval of an application to supervise physician assistants.

34 (c) A biennial renewal fee not to exceed three hundred dollars
35 (\$300) shall be paid for the renewal of an approval.

36 (d) The delinquency fee is twenty-five dollars (\$25).

37 (e) The duplicate approval fee is ten dollars (\$10).

38 (f) The fee for a letter of endorsement, letter of good standing,
39 or letter of verification of approval shall be ten dollars (\$10).

1 *SEC. 47. Section 3521.1 of the Business and Professions Code*
2 *is amended to read:*

3 3521.1. The fees to be paid by physician assistants are to be
4 set by the ~~committee~~ *board* as follows:

5 (a) An application fee not to exceed twenty-five dollars (\$25)
6 shall be charged to each physician assistant applicant.

7 (b) An initial license fee not to exceed two hundred fifty dollars
8 (\$250) shall be charged to each physician assistant to whom a
9 license is issued.

10 (c) A biennial license renewal fee not to exceed three hundred
11 dollars (\$300).

12 (d) The delinquency fee is twenty-five dollars (\$25).

13 (e) The duplicate license fee is ten dollars (\$10).

14 (f) The fee for a letter of endorsement, letter of good standing,
15 or letter of verification of licensure shall be ten dollars (\$10).

16 *SEC. 48. Section 3521.2 of the Business and Professions Code*
17 *is amended to read:*

18 3521.2. The fees to be paid by physician assistant training
19 programs are to be set by the ~~committee~~ *board* as follows:

20 (a) An application fee not to exceed five hundred dollars (\$500)
21 shall be charged to each applicant seeking program approval by
22 the ~~committee~~ *board*.

23 (b) An approval fee not to exceed one hundred dollars (\$100)
24 shall be charged to each program upon its approval by the
25 ~~committee~~ *board*.

26 *SEC. 49. Section 3521.3 is added to the Business and*
27 *Professions Code, to read:*

28 3521.3. *Every licensed physician assistant is exempt from the*
29 *payment of the renewal fee and requirement for continuing medical*
30 *education if the licensee has applied to the board for a retired*
31 *license. The holder of a retired license may not engage in the*
32 *practice of a physician assistant.*

33 *SEC. 50. Section 3521.4 is added to the Business and*
34 *Professions Code, to read:*

35 3521.4. (a) *Every licensed physician assistant is exempt from*
36 *the payment of the renewal fee specified in Section 3521.1 while*
37 *engaged in full-time training or active service in the Army, Navy,*
38 *Air Force, or Marines, or in the United States Public Health*
39 *Service.*

1 **(b)** *Every person exempted from the payment of the renewal fee*
2 *by this section shall not engage in any private practice and shall*
3 *become liable for payment of such fee for the current renewal*
4 *period upon his or her discharge from full-time active service and*
5 *shall have a period of 60 days after becoming liable within which*
6 *to pay the renewal fee before the delinquency fee is required. Any*
7 *person who is discharged from active service within 60 days of*
8 *the end of a renewal period is exempt from the payment of the*
9 *renewal fee for that period.*

10 **(c)** *The time spent in full-time active service or training shall*
11 *not be included in the computation of the five-year period for*
12 *renewal and reinstatement of licensure provided in Sections 3524.*

13 **(d)** *Nothing in this section shall exempt a person, exempt from*
14 *renewal fees under this section, from meeting the continuing*
15 *education requirements as provided in Section 3524.5.*

16 **SEC. 51.** *Section 3521.5 of the Business and Professions Code*
17 *is amended to read:*

18 3521.5. ~~The committee board~~ shall report to the appropriate
19 policy and fiscal committees of each house of the Legislature
20 whenever the ~~board~~ Medical Board of California approves a fee
21 increase pursuant to Sections 3521 and 3521.1. ~~The committee~~
22 ~~board~~ shall specify the reasons for each increase in the report.
23 Reports prepared pursuant to this section shall identify the
24 percentage of funds derived from an increase in fees pursuant to
25 Senate Bill 1077 of the 1991–92 Regular Session (Chapter 917,
26 Statutes of 1991) that will be used for investigational and
27 enforcement activities by the ~~board~~ Medical Board of California
28 and ~~committee board~~.

29 **SEC. 52.** *Section 3522 of the Business and Professions Code*
30 *is amended to read:*

31 3522. An approval to supervise physician assistants shall expire
32 at 12 midnight on the last day of the birth month of the physician
33 and surgeon during the second year of a two-year term if not
34 renewed.

35 ~~The board~~ Medical Board of California shall establish a cyclical
36 renewal program, including, but not limited to, the establishment
37 of a system of staggered expiration dates for approvals and a pro
38 rata formula for the payment of renewal fees by physician and
39 surgeon supervisors.

1 To renew an unexpired approval, the approved supervising
2 physician and surgeon, on or before the date of expiration, shall
3 apply for renewal on a form prescribed by the ~~board~~ *Medical Board*
4 *of California* and pay the prescribed renewal fee.

5 *SEC. 53. Section 3523 of the Business and Professions Code*
6 *is amended to read:*

7 3523. All physician assistant licenses shall expire at 12
8 midnight of the last day of the birth month of the licensee during
9 the second year of a two-year term if not renewed.

10 The ~~committee~~ *board* shall establish by regulation procedures
11 for the administration of a birthdate renewal program, including,
12 but not limited to, the establishment of a system of staggered
13 license expiration dates and a pro rata formula for the payment of
14 renewal fees by physician assistants affected by the implementation
15 of the program.

16 To renew an unexpired license, the licensee shall, on or before
17 the date of expiration of the license, apply for renewal on a form
18 provided by the ~~committee~~ *board*, accompanied by the prescribed
19 renewal fee.

20 *SEC. 54. Section 3524 of the Business and Professions Code*
21 *is amended to read:*

22 3524. A license or approval that has expired may be renewed
23 at any time within five years after its expiration by filing an
24 application for renewal on a form prescribed by the ~~committee~~
25 *board* or ~~board~~ *Medical Board of California*, as the case may be,
26 and payment of all accrued and unpaid renewal fees. If the license
27 or approval is not renewed within 30 days after its expiration, the
28 licensed physician assistant and approved supervising physician,
29 as a condition precedent to renewal, shall also pay the prescribed
30 delinquency fee, if any. Renewal under this section shall be
31 effective on the date on which the application is filed, on the date
32 on which all renewal fees are paid, or on the date on which the
33 delinquency fee, if any, is paid, whichever occurs last. If so
34 renewed, the license shall continue in effect through the expiration
35 date provided in Section 3522 or 3523 which next occurs after the
36 effective date of the renewal, when it shall expire, if it is not again
37 renewed.

38 *SEC. 55. Section 3524.5 of the Business and Professions Code*
39 *is amended to read:*

1 3524.5. The ~~committee board~~ may require a licensee to
2 complete continuing education as a condition of license renewal
3 under Section 3523 or 3524. The ~~committee board~~ shall not require
4 more than 50 hours of continuing education every two years. The
5 ~~committee board~~ shall, as it deems appropriate, accept certification
6 by the National Commission on Certification of Physician
7 Assistants (NCCPA), or another qualified certifying body, as
8 determined by the ~~committee board~~, as evidence of compliance
9 with continuing education requirements.

10 SEC. 56. Section 3526 of the Business and Professions Code
11 is amended to read:

12 3526. A person who fails to renew his or her license or approval
13 within five years after its expiration may not renew it, and it may
14 not be reissued, reinstated, or restored thereafter, but that person
15 may apply for and obtain a new license or approval if he or she:

16 (a) Has not committed any acts or crimes constituting grounds
17 for denial of licensure under Division 1.5 (commencing with
18 Section 475).

19 (b) Takes and passes the examination, if any, which would be
20 required of him or her if application for licensure was being made
21 for the first time, or otherwise establishes to the satisfaction of the
22 ~~committee board~~ that, with due regard for the public interest, he
23 or she is qualified to practice as a physician assistant.

24 (c) Pays all of the fees that would be required as if application
25 for licensure was being made for the first time.

26 SEC. 57. Section 3527 of the Business and Professions Code
27 is amended to read:

28 3527. (a) The ~~committee board~~ may order the denial of an
29 application for, or the issuance subject to terms and conditions of,
30 or the suspension or revocation of, or the imposition of
31 probationary conditions upon a physician assistant license after a
32 hearing as required in Section 3528 for unprofessional conduct
33 that includes, but is not limited to, a violation of this chapter, a
34 violation of the Medical Practice Act, or a violation of the
35 regulations adopted by the ~~committee board~~ or the ~~board~~ Medical
36 Board of California.

37 (b) The ~~committee board~~ may order the denial of an application
38 for, or the suspension or revocation of, or the imposition of
39 probationary conditions upon, an approved program after a hearing

1 as required in Section 3528 for a violation of this chapter or the
2 regulations adopted pursuant thereto.

3 (c) ~~The board~~ *Medical Board of California* may order the denial
4 of an application for, or the issuance subject to terms and conditions
5 of, or the suspension or revocation of, or the imposition of
6 probationary conditions upon, an approval to supervise a physician
7 assistant, after a hearing as required in Section 3528, for
8 unprofessional conduct, which includes, but is not limited to, a
9 violation of this chapter, a violation of the Medical Practice Act,
10 or a violation of the regulations adopted by the ~~committee board~~
11 or the ~~board~~ *Medical Board of California*.

12 (d) Notwithstanding subdivision (c), the Division of Medical
13 Quality of the Medical Board of California, in conjunction with
14 an action it has commenced against a physician and surgeon, may,
15 in its own discretion and without the concurrence of the ~~board~~
16 *Medical Board of California*, order the suspension or revocation
17 of, or the imposition of probationary conditions upon, an approval
18 to supervise a physician assistant, after a hearing as required in
19 Section 3528, for unprofessional conduct, which includes, but is
20 not limited to, a violation of this chapter, a violation of the Medical
21 Practice Act, or a violation of the regulations adopted by the
22 ~~committee or the board~~ *or the Medical Board of California*.

23 (e) ~~The committee board~~ may order the denial of an application
24 for, or the suspension or revocation of, or the imposition of
25 probationary conditions upon, a physician assistant license, after
26 a hearing as required in Section 3528 for unprofessional conduct
27 that includes, except for good cause, the knowing failure of a
28 licensee to protect patients by failing to follow infection control
29 guidelines of the ~~committee board~~, thereby risking transmission
30 of blood-borne infectious diseases from licensee to patient, from
31 patient to patient, and from patient to licensee. In administering
32 this subdivision, the ~~committee board~~ shall consider referencing
33 the standards, regulations, and guidelines of the State Department
34 of Public Health developed pursuant to Section 1250.11 of the
35 Health and Safety Code and the standards, regulations, and
36 guidelines pursuant to the California Occupational Safety and
37 Health Act of 1973 (Part 1 (commencing with Section 6300) of
38 Division 5 of the Labor Code) for preventing the transmission of
39 HIV, hepatitis B, and other blood-borne pathogens in health care
40 settings. As necessary, the ~~committee board~~ shall consult with the

1 California Medical Board, the Board of Podiatric Medicine, the
2 Board of Dental Examiners, the Board of Registered Nursing, and
3 the Board of Vocational Nursing and Psychiatric Technicians, to
4 encourage appropriate consistency in the implementation of this
5 subdivision.

6 The ~~committee~~ *board* shall seek to ensure that licensees are
7 informed of the responsibility of licensees and others to follow
8 infection control guidelines, and of the most recent scientifically
9 recognized safeguards for minimizing the risk of transmission of
10 blood-borne infectious diseases.

11 (f) The ~~committee~~ *board* may order the licensee to pay the costs
12 of monitoring the probationary conditions imposed on the license.

13 *SEC. 58. Section 3529 of the Business and Professions Code*
14 *is amended to read:*

15 3529. The ~~committee~~ *board* may hear any matters filed pursuant
16 to subdivisions (a) and (b) of Section 3527, or may assign ~~any such~~
17 *the* matter to a hearing officer. The ~~board~~ *Medical Board of*
18 *California* may hear any matters filed pursuant to subdivision (c)
19 of Section 3527, or may assign ~~any such the~~ matter to a hearing
20 officer. If a matter is heard by the ~~committee board~~ or the ~~board~~
21 *Medical Board of California*, the hearing officer who presided at
22 the hearing shall be present during the ~~committee's or board's or~~
23 *the Medical Board of California's* consideration of the case, and,
24 if requested assist and advise the ~~committee or the board or the~~
25 *Medical Board of California*.

26 *SEC. 59. Section 3530 of the Business and Professions Code*
27 *is amended to read:*

28 3530. (a) A person whose license or approval has been revoked
29 or suspended, or who has been placed on probation, may petition
30 the ~~committee board~~ for reinstatement or modification of penalty,
31 including modification or termination of probation, after a period
32 of not less than the following minimum periods has elapsed from
33 the effective date of the decision ordering that disciplinary action:

34 (1) At least three years for reinstatement of a license or approval
35 revoked for unprofessional conduct, except that the committee
36 may, for good cause shown, specify in a revocation order that a
37 petition for reinstatement may be filed after two years.

38 (2) At least two years for early termination of probation of three
39 years or more.

1 (3) At least one year for modification of a condition, or
2 reinstatement of a license or approval revoked for mental or
3 physical illness, or termination of probation of less than three years.

4 (b) The petition shall state any facts as may be required by the
5 ~~board~~ *Medical Board of California*. The petition shall be
6 accompanied by at least two verified recommendations from
7 physicians licensed either by the Medical Board of California or
8 the Osteopathic Medical Board who have personal knowledge of
9 the activities of the petitioner since the disciplinary penalty was
10 imposed.

11 (c) The petition may be heard by the ~~committee board~~. The
12 ~~committee board~~ may assign the petition to an administrative law
13 judge designated in Section 11371 of the Government Code. After
14 a hearing on the petition, the administrative law judge shall provide
15 a proposed decision to the ~~committee board~~ that shall be acted
16 upon in accordance with the Administrative Procedure Act.

17 (d) The ~~committee board~~ or the administrative law judge hearing
18 the petition, may consider all activities of the petitioner since the
19 disciplinary action was taken, the offense for which the petitioner
20 was disciplined, the petitioner's activities during the time the
21 license was in good standing, and the petitioner's rehabilitative
22 efforts, general reputation for truth, and professional ability. The
23 hearing may be continued, as the committee or administrative law
24 judge finds necessary.

25 (e) The ~~committee board~~ or administrative law judge, when
26 hearing a petition for reinstating a license or approval or modifying
27 a penalty, may recommend the imposition of any terms and
28 conditions deemed necessary.

29 (f) No petition shall be considered while the petitioner is under
30 sentence for any criminal offense, including any period during
31 which the petitioner is on court-imposed probation or parole. No
32 petition shall be considered while there is an accusation or petition
33 to revoke probation pending against the person. The ~~committee~~
34 ~~board~~ may deny, without a hearing or argument, any petition filed
35 pursuant to this section within a period of two years from the
36 effective date of the prior decision following a hearing under this
37 section.

38 (g) Nothing in this section shall be deemed to alter Sections 822
39 and 823.

1 *SEC. 60. Section 3531 of the Business and Professions Code*
2 *is amended to read:*

3 3531. A plea or verdict of guilty or a conviction following a
4 plea of nolo contendere made to a charge of a felony or of any
5 offense which is substantially related to the qualifications,
6 functions, or duties of the business or profession to which the
7 license was issued is deemed to be a conviction within the meaning
8 of this chapter. The ~~committee~~ *board* may order the license
9 suspended or revoked, or shall decline to issue a license when the
10 time for appeal has elapsed, or the judgment of conviction has
11 been affirmed on appeal or when an order granting probation is
12 made suspending the imposition of sentence, irrespective of a
13 subsequent order under the provisions of Section 1203.4 of the
14 Penal Code allowing such person to withdraw his plea of guilty
15 and to enter a plea of not guilty, or setting aside the verdict of
16 guilty, or dismissing the accusation, information or indictment.

17 *SEC. 61. Section 3533 of the Business and Professions Code*
18 *is amended to read:*

19 3533. Whenever any person has engaged in any act or practice
20 which constitutes an offense against this chapter, the superior court
21 of any county, on application of the ~~board~~ *Medical Board of*
22 *California*, may issue an injunction or other appropriate order
23 restraining such conduct. Proceedings under this section shall be
24 governed by Chapter 3 (commencing with Section 525) of Title 7
25 of Part 2 of the Code of Civil Procedure. The ~~board or the~~
26 ~~committee~~ *Medical Board of California or the board* may
27 commence action in the superior court under the provisions of this
28 section.

29 *SEC. 62. Section 3534 of the Business and Professions Code*
30 *is amended to read:*

31 3534. (a) It is the intent of the Legislature that the ~~examining~~
32 ~~committee~~ *board* shall seek ways and means to identify and
33 rehabilitate physician assistants whose competency is impaired
34 due to abuse of dangerous drugs or alcohol so that they may be
35 treated and returned to the practice of medicine in a manner which
36 will not endanger the public health and safety.

37 *SEC. 63. Section 3534.1 of the Business and Professions Code*
38 *is amended to read:*

39 3534.1. The ~~examining committee~~ *board* shall establish and
40 administer a diversion program for the rehabilitation of physician

1 assistants whose competency is impaired due to the abuse of drugs
2 or alcohol. The ~~examining committee~~ board may contract with
3 any other state agency or a private organization to perform its
4 duties under this article. The ~~examining committee~~ board may
5 establish one or more diversion evaluation committees to assist it
6 in carrying out its duties under this article. As used in this article,
7 “committee” means a diversion evaluation committee. A committee
8 created under this article operates under the direction of the
9 diversion program manager, as designated by the executive officer
10 of the ~~examining committee~~ board. The program manager has the
11 primary responsibility to review and evaluate recommendations
12 of the committee.

13 *SEC. 64. Section 3534.2 of the Business and Professions Code*
14 *is amended to read:*

15 3534.2. (a) Any committee established by the ~~examining~~
16 ~~committee~~ board shall have at least three members. In making
17 appointments to a committee the ~~examining committee~~ board shall
18 consider the appointments of persons who are either recovering
19 of substance abuse and have been free from abuse for at least three
20 years immediately prior to their appointment or who are
21 knowledgeable in the treatment and recovery of substance abuse.
22 The ~~examining committee~~ board also shall consider the
23 appointment of a physician and surgeon who is board certified in
24 psychiatry.

25 (b) Appointments to a committee shall be by the affirmative
26 vote of a majority of members appointed to the ~~examining~~
27 ~~committee~~ board. Each appointment shall be at the pleasure of the
28 ~~examining committee~~ board for a term not to exceed four years.
29 In its discretion, the ~~examining committee~~ board may stagger the
30 terms of the initial members so appointed.

31 (c) A majority of the members of a committee shall constitute
32 a quorum for the transaction of business. Any action requires an
33 affirmative vote of a majority of those members present at a
34 meeting constituting at least a quorum. Each committee shall elect
35 from its membership a chairperson and a vice chairperson.
36 Notwithstanding Article 9 (commencing with Section 11120) of
37 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
38 Code, relating to public meetings, a committee may convene in
39 closed session to consider matters relating to any physician
40 assistant applying for or participating in a diversion program, and

1 a meeting which will be convened entirely in closed session need
2 not comply with Section 11125 of the Government Code. A
3 committee shall only convene in closed session to the extent it is
4 necessary to protect the privacy of an applicant or participant. Each
5 member of a committee shall receive a per diem and shall be
6 reimbursed for expenses as provided in Section 103.

7 *SEC. 65. Section 3534.3 of the Business and Professions Code*
8 *is amended to read:*

9 3534.3. Each committee has the following duties and
10 responsibilities:

11 (a) To evaluate physician assistants who request participation
12 in the program and to make recommendations to the program
13 manager. In making recommendations, a committee shall consider
14 any recommendations from professional consultants on the
15 admission of applicants to the diversion program.

16 (b) To review and designate treatment facilities to which
17 physician assistants in the diversion program may be referred, and
18 to make recommendations to the program manager.

19 (c) The receipt and review of information concerning physician
20 assistants participating in the program.

21 (d) To call meetings as necessary to consider the requests of
22 physician assistants to participate in the diversion program, to
23 consider reports regarding participants in the program, and to
24 consider any other matters referred to it by the ~~examining~~
25 ~~committee board~~.

26 (e) To consider whether each participant in the diversion
27 program may with safety continue or resume the practice of
28 medicine.

29 (f) To set forth in writing the terms and conditions of the
30 diversion agreement that is approved by the program manager for
31 each physician assistant participating in the program, including
32 treatment, supervision, and monitoring requirements.

33 (g) To hold a general meeting at least twice a year, which shall
34 be open and public, to evaluate the diversion program's progress,
35 to prepare reports to be submitted to the ~~examining committee~~
36 ~~board~~, and to suggest proposals for changes in the diversion
37 program.

38 (h) For the purposes of Division 3.6 (commencing with Section
39 810) of Title 1 of the Government Code, any member of a
40 committee shall be considered a public employee. No ~~examining~~

1 ~~committee board~~ or committee member, contractor, or agent
2 thereof, shall be liable for any civil damage because of acts or
3 omissions which may occur while acting in good faith in a program
4 established pursuant to this article.

5 *SEC. 66. Section 3534.4 of the Business and Professions Code*
6 *is amended to read:*

7 3534.4. Criteria for acceptance into the diversion program shall
8 include all of the following: (a) the applicant shall be licensed as
9 a physician assistant by the ~~examining committee board~~ and shall
10 be a resident of California; (b) the applicant shall be found to abuse
11 dangerous drugs or alcoholic beverages in a manner which may
12 affect his or her ability to practice medicine safely or competently;
13 (c) the applicant shall have voluntarily requested admission to the
14 program or shall be accepted into the program in accordance with
15 terms and conditions resulting from a disciplinary action; (d) the
16 applicant shall agree to undertake any medical or psychiatric
17 examination ordered to evaluate the applicant for participation in
18 the program; (e) the applicant shall cooperate with the program
19 by providing medical information, disclosure authorizations, and
20 releases of liability as may be necessary for participation in the
21 program; and (f) the applicant shall agree in writing to cooperate
22 with all elements of the treatment program designed for him or
23 her.

24 An applicant may be denied participation in the program if the
25 ~~examining committee board~~, the program manager, or a committee
26 determines that the applicant will not substantially benefit from
27 participation in the program or that the applicant's participation
28 in the program creates too great a risk to the public health, safety,
29 or welfare.

30 *SEC. 67. Section 3534.5 of the Business and Professions Code*
31 *is amended to read:*

32 3534.5. A participant may be terminated from the program for
33 any of the following reasons: (a) the participant has successfully
34 completed the treatment program; (b) the participant has failed to
35 comply with the treatment program designated for him or her; (c)
36 the participant fails to meet any of the criteria set forth in
37 subdivision (d); or (d) it is determined that the participant has not
38 substantially benefited from participation in the program or that
39 his or her continued participation in the program creates too great
40 a risk to the public health, safety, or welfare. Whenever an

1 applicant is denied participation in the program or a participant is
2 terminated from the program for any reason other than the
3 successful completion of the program, and it is determined that
4 the continued practice of medicine by that individual creates too
5 great a risk to the public health and safety, that fact shall be
6 reported to the executive officer of the ~~examining committee~~ *board*
7 and all documents and information pertaining to and supporting
8 that conclusion shall be provided to the executive officer. The
9 matter may be referred for investigation and disciplinary action
10 by the ~~examining committee~~ *board*. Each physician assistant who
11 requests participation in a diversion program shall agree to
12 cooperate with the recovery program designed for him or her. Any
13 failure to comply with that program may result in termination of
14 participation in the program.

15 The ~~examination committee~~ *board* shall inform each participant
16 in the program of the procedures followed in the program, of the
17 rights and responsibilities of a physician assistant in the program,
18 and the possible results of noncompliance with the program.

19 *SEC. 68. Section 3534.6 of the Business and Professions Code*
20 *is amended to read:*

21 3534.6. In addition to the criteria and causes set forth in Section
22 3534.4, the ~~examining committee~~ *board* may set forth in its
23 regulations additional criteria for admission to the program or
24 causes for termination from the program.

25 *SEC. 69. Section 3534.7 of the Business and Professions Code*
26 *is amended to read:*

27 3534.7. All ~~examining committee~~ *board* and committee records
28 and records of proceedings and participation of a physician
29 assistant in a program shall be confidential and are not subject to
30 discovery or subpoena.

31 *SEC. 70. Section 3534.9 of the Business and Professions Code*
32 *is amended to read:*

33 3534.9. If the ~~examining committee~~ *board* contracts with any
34 other entity to carry out this section, the executive officer of the
35 ~~examining committee~~ *board* or the program manager shall review
36 the activities and performance of the contractor on a biennial basis.
37 As part of this review, the ~~examining committee~~ *board* shall review
38 files of participants in the program. However, the names of
39 participants who entered the program voluntarily shall remain

1 confidential, except when the review reveals misdiagnosis, case
2 mismanagement, or noncompliance by the participant.

3 *SEC. 71. Section 3534.10 of the Business and Professions Code*
4 *is amended to read:*

5 3534.10. Participation in a diversion program shall not be a
6 defense to any disciplinary action which may be taken by the
7 ~~examining-committee board~~. This section does not preclude the
8 ~~examining-committee board~~ from commencing disciplinary action
9 against a physician assistant who is terminated unsuccessfully
10 from the program under this section. That disciplinary action may
11 not include as evidence any confidential information.

12 *SEC. 72. Section 3535 of the Business and Professions Code*
13 *is amended to read:*

14 3535. (a) Notwithstanding any other provision of law,
15 physicians and surgeons licensed by the Osteopathic Medical Board
16 of California may use or employ physician assistants provided (1)
17 each physician assistant so used or employed is a graduate of an
18 approved program and is licensed by the ~~committee board~~, and
19 (2) the scope of practice of the physician assistant is the same as
20 that which is approved by the Division of Licensing of the Medical
21 Board of California for physicians and surgeons supervising
22 physician assistants in the same or similar specialty.

23 (b) Any person who violates subdivision (a) shall be guilty of
24 a misdemeanor punishable by imprisonment in a county jail not
25 exceeding six months, or by a fine not exceeding one thousand
26 dollars (\$1,000), or by both that imprisonment and fine.

27 (c) This section shall become operative on July 1, 2001.

28 *SEC. 73. Section 3537.10 of the Business and Professions Code*
29 *is amended to read:*

30 3537.10. (a) Subject to the other provisions of this article, the
31 Office of Statewide Health Planning and Development, hereafter
32 in this article referred to as the office, shall coordinate the
33 establishment of an international medical graduate physician
34 assistant training program, to be conducted at an appropriate
35 educational institution or institutions. The goal of the program
36 shall be to place as many international medical graduate physician
37 assistants in medically underserved areas as possible in order to
38 provide greater access to care for the growing population of
39 medically indigent and underserved. The method for accomplishing
40 this goal shall be to train foreign medical graduates to become

1 licensed as physician assistants at no cost to the participants in
2 return for a commitment from the participants to serve full-time
3 in underserved areas for a four-year period.

4 (b) By February 1, 1994, or one month after federal funds to
5 implement this article become available, whichever occurs later,
6 the office shall establish a training program advisory task force.
7 The task force shall be comprised of representatives from all of
8 the following groups:

- 9 (1) Physician assistant program directors.
- 10 (2) Foreign medical graduates.
- 11 (3) The California Academy of Physician Assistants.
- 12 (4) Nonprofit community health center directors.
- 13 (5) Physicians.
- 14 (6) ~~The committee board~~, at the ~~committee's board's~~ option.

15 The office may, instead, serve solely as a consultant to the task
16 force.

17 (c) The task force shall do all of the following:

18 (1) Develop a recommended curriculum for the training program
19 that shall be from 12 to 15 months in duration and shall, at a
20 minimum, meet curriculum standards consistent with the
21 ~~committee's board's~~ regulations. The program shall be subject to
22 the ~~committee's board's~~ approval. By April 1, 1994, or three
23 months after federal funds to implement this article become
24 available, whichever occurs later, the curriculum shall be presented
25 by the office to the Committee on Allied Health Education and
26 Accreditation of the American Medical Association, or its
27 successor organization, for approval.

28 (2) Develop recommended admission criteria for participation
29 in the pilot and ongoing program.

30 (3) Assist in development of linkages with academic institutions
31 for the purpose of monitoring and evaluating the pilot program.

32 *SEC. 74. Section 3537.20 of the Business and Professions Code*
33 *is amended to read:*

34 3537.20. Any person who has satisfactorily completed the
35 program established by this article shall be eligible for licensure
36 by the ~~committee board~~ as a "physician assistant" if the person
37 has complied with all of the following requirements:

38 (a) Has successfully completed the written examination required
39 under Section 3517.

(b) Has successfully completed the Test of English as a Foreign Language (TOEFL).

SEC. 75. Section 3537.30 of the Business and Professions Code is amended to read:

3537.30. (a) The Legislature recognizes that the goal of this program would be compromised if participants do not observe their commitments under this program to provide the required service in a medically underserved area. The goal of this program would not be met if all that it accomplished was merely to license physician assistants that served populations that are not medically underserved.

(b) Since damages would be difficult or impossible to ascertain in the event of default by the participant, this section shall set forth the extent of liquidated damages that shall be recoverable by the program in the case of default.

(c) In the case of default by a participant who has successfully completed the program and has obtained licensure under this article, the program shall collect the following damages from the participant:

(1) The total cost expended by the program for the training of the applicant, and interest thereon from the date of default.

(2) The total amount needed for the program to seek cover as set forth in subdivision (b) of Section 3537.35.

(3) The costs of enforcement, including, but not limited to, the costs of collecting the liquidated damages, the costs of litigation, and attorney's fees.

(d) The Attorney General may represent the office, or the ~~committee~~ board, or both in any litigation necessitated by this article, or, if the Attorney General declines, the office, or the ~~committee~~ board, or both may hire other counsel for this purpose.

(e) Funds collected pursuant to subdivision (c) shall be allocated as follows:

(1) Costs of training recovered pursuant to paragraph (1) of subdivision (c) shall be allocated to the office to be used upon appropriation for the continuing training program pursuant to this article.

(2) Costs of seeking cover recovered pursuant to paragraph (2) of subdivision (c) shall be deposited in the Physician Assistant Training Fund established pursuant to Section 3537.40 for the

1 purposes of providing grants pursuant to subdivision (c) of Section
2 3537.35.

3 (3) Costs of enforcement recovered pursuant to paragraph (3)
4 of subdivision (c) shall be allocated between the office, and the
5 Attorney General, or other counsel, according to actual costs.

6 *SEC. 76. Section 3537.50 of the Business and Professions Code*
7 *is amended to read:*

8 3537.50. No General Fund revenues shall be expended to carry
9 out this article. The implementation of the pilot program and, if
10 applicable, the permanent program established by this article shall
11 be contingent upon the availability of federal funds, which do not
12 divert or detract from funds currently utilized to underwrite existing
13 physician assistant training programs or to fund existing functions
14 of the ~~committee~~ board. The new funding shall be sufficient to
15 cover the full additional cost to the educational institution or
16 institutions that establish the program or programs, the cost of
17 tuition and attendance for the students in the program or programs,
18 and any additional costs, including enforcement costs, that the
19 office or the ~~committee~~ board incurs as a result of implementing
20 this article. Nothing in this article shall be construed as imposing
21 any obligations upon the office, the ~~committee~~ board, or any
22 physician assistant training program in the absence of adequate
23 funding as described in this section. Nothing in this article shall
24 be construed either as precluding applicants for the program
25 established by this article from seeking state or federal scholarship
26 funds, or state and federal loan repayment funds available to
27 physician assistant students, or as requiring that any applicants be
28 granted preference in the award of those funds. Nothing in this
29 article shall be construed as impairing the autonomy of any
30 institution that offers a physician assistant training program.

31 *SEC. 77. Section 3540 of the Business and Professions Code*
32 *is amended to read:*

33 3540. A physician assistants corporation is a corporation which
34 is authorized to render professional services, as defined in Section
35 13401 of the Corporations Code, so long as that corporation and
36 its shareholders, officers, directors, and employees rendering
37 professional services who are certified physician assistants are in
38 compliance with the Moscone-Knox Professional Corporation Act,
39 the provisions of this article, and all other statutes and regulations

1 now or hereafter enacted or adopted pertaining to the corporation
2 and the conduct of its affairs.

3 With respect to a physician assistants corporation, the
4 governmental agency referred to in the Moscone-Knox Professional
5 Corporation Act (commencing with Section 13400) of Division 3
6 of Title 1 of the Corporations Code) is the ~~committee~~ board.

7 *SEC. 78. Section 3546 of the Business and Professions Code*
8 *is amended to read:*

9 3546. The ~~board~~ *Medical Board of California* may adopt and
10 enforce regulations to carry out the purposes and objectives of this
11 article, including regulations requiring (a) that the bylaws of a
12 physician assistant corporation shall include a provision whereby
13 the capital stock of the corporation owned by a disqualified person
14 (as defined in Section 13401 of the Corporations Code), or a
15 deceased person, shall be sold to the corporation or to the remaining
16 shareholders of the corporation within the time as the regulations
17 may provide, and (b) that a physician assistant corporation shall
18 provide adequate security by insurance or otherwise for claims
19 against it by its patients arising out of the rendering of professional
20 services.

21 *SEC. 79. No reimbursement is required by this act pursuant*
22 *to Section 6 of Article XIII B of the California Constitution because*
23 *the only costs that may be incurred by a local agency or school*
24 *district will be incurred because this act creates a new crime or*
25 *infraction, eliminates a crime or infraction, or changes the penalty*
26 *for a crime or infraction, within the meaning of Section 17556 of*
27 *the Government Code, or changes the definition of a crime within*
28 *the meaning of Section 6 of Article XIII B of the California*
29 *Constitution.*